ethnocentricity and Western bias. Thus Greek images of the Persians are described as ''ethnocentric'' and students are asked to read John of Plano, a 13th century papal emissary, on the Mongal threat and analyze his social and cultural biases about the Mongols.

The world history standards fail to note that although slavery ended in the West during the 19th century, at the cost of the blood of hundreds of thousands of sons of the intrusive European immigrants, slavery continues to exist today as it has for millenia in the non-West, according to official United Nations reports.

These world history standards do not compare and contrast political systems in the West and the non-West during the 19th and 20th centuries.

Thus, teachers are not encouraged to compare Western democracies with Asian and African despotism. Nor are post-1989 students encouraged to consider the Communist ideal versus the historical reality. Why not compare the Soviet Socialist experiment with the American story in the 20th century, or contrast Lenin's reign of terror with Washington's leadership? Too unimportant to consider seems to be the view of these standard makers.

Our students need to know the theoretical foundations of our liberties. They need to learn why the dictatorship of the proletariat failed in its promised bliss.

The world history standards assert that students should be able to assess the accomplishments and costs of Communist rule in China during Mao's Great Leap Forward of 1958. Current estimates of the costs are 30 million murders of Mao's own fellow citizens. Why not ask students to analyze the Great Leap Forward itself, rather than to suggest that its accomplishments may have been worth its costs? A truly suitable activity? Read Jung Chaing's ''Life and Death in Shanghai,'' a record of the arrests, mock trials, endless imprisonment, the beatings, the innocent children murdered—all in the name of social progress during Mao's Cultural Revolution.

As recently reported in the Nation's newspapers, apologists for this project will tell you this is ''work in progress.'' Nothing to be alarmed about. Changes can be made.

Mr. President, this does not look like work in progress. Nothing in its content, nothing in its introductory chapters indicates that it is to be modified. It is a finished project.

At the present time, there are 10,000 copies of the United States, world, and K–4 history standards in circulation. These copies are in use throughout the educational world. In some cases they are already being used as curriculum guidelines. They are in the hands of textbook publishers, curriculum writers, and other education experts. Funded by taxpayers money, UCLA has been selling the standards books—$18 for individuals and $24 for groups—and they are making money.

Last Saturday, an apologist for the project was quoted in the Washington Post saying, ''We shouldn't try to throw out the entire barrel just because there are a few bad apples in it.''

Do not believe it. It is the opinion of Lynn Cheney, who herself authorized this project as Chairman of the National Endowment of the Humanities; Dr. Elizabeth Fox-Genovese, a professor of history and women's studies at Emory who was on the project's National Council, Gilbert Sewall, director of the American Textbook Council, also on the project's advisory board; and many others directly involved from its conception that these standards are beyond any hope of salvaging—much to their own great disappointment as much of their personal time and efforts were offered to the cause.

I agree. These standards must be junked in total.

The problem is not one of mere detail. The problem is in its philosophical foundations. Those foundations are fundamentally anti-Western, and anti-American in their conceptual framework. The correction of a few of the worst excesses will not remove that anti-American, anti-Western formulation at its base. And it is a most serious problem. Whether or not the standards are certified by the still to be created Goals 2000 NESIC Board, according to Gilbert Sewall and many others, the way in which the textbook establishment works, this manual, having the extraordinary prestige of being the first national curriculum guide, will become, de facto, official if not strongly repudiated. As Dr. Sewall has stated, ''It will be the first draft of the next generation of textbooks.''

Right now, there are 10,000 copies of these standards being circulated among leading American educators. Like the infamous exploding Pinto, these manuals pose a horrendous threat to the vitality and accuracy of American history education, and they must be recalled.

Mr. President, I have been in favor of national standards. Although I had serious reservations, I added my vote to Goals 2000. The development of this ideologically driven, anti-Western monument to politically correct caricature is not what the Congress envisioned, nor is it what the American people paid for. The purpose of this amendment is therefore publicly to repudiate its continued use and stop its further influence. Should such a project ever be taken up again, and I am not at all sure it should be, in light of this experience, it must be undertaken by scholars with at least a passable understanding of and decent respect for this country and for its roots in Western civilization.

On the eve of the Civil War in March 1861, in his first inaugural address, Abraham Lincoln reminded the troubled country of the importance of our shared and common past:

> Though passion may have strained, it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave, to every living heart and hearthstone, all over this broad land, will yet swell the chorus of the union, when again touched, as surely they will be, by the better angels of our nature.

The proposed national standards in American history are designed to and will destroy our Nation's mystic chords of memory, so eloquently invoked by Lincoln 130 years ago.

Those mystic chords of memory are already perilously frayed. Study after study demonstrates the wounding absence of a shared knowledge of our Nation's history. These standards would only serve to deepen that wound, and so they must be rejected.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:05 p.m.

There being no objection, the Senate, at 1:35 p.m., recessed until the hour of 2:05; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GREGG].

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFUNDED MANDATE REFORM ACT

AMENDMENT NO. 139 TO AMENDMENT NO. 31

(Purpose: To prevent the adoption of certain national history standards)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 139 to amendment No. 31.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after ''SEC.'' and add the following:

. NATIONAL HISTORY STANDARDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the National Education Goals Panel shall disapprove, and the National Education Standards and Improvement Council shall not certify, any voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, regarding the subject of history, that have been developed prior to February 1, 1995.

(b) PROHIBITION.—No Federal funds shall be awarded to, or expended by, the National Center for History in the Schools, after the date of enactment of this Act, for the development of the voluntary national content standards, the voluntary national student performance standards, and the criteria for the certification of such content and student performance standards, regarding the subject of history.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the voluntary national content standards, the voluntary national student performance standards, and the criteria for the certification of such content and student performance standards, regarding the subject of history, that are established under title II of the Goals 2000: Educate America Act should not be based on standards developed by the National Center for History in the Schools; and

(2) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (1), the recipient of such funds should have a decent respect for United States history's roots in western civilization.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. GLENN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I would like to address the pending amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, if one is not aware of the history of this issue over the past decade or so, this amendment might seem like one that we ought to concentrate on and seriously consider.

It brings up the issue of educational standards, but it takes our attention away from the basic reasons for the development of the Goals 2000.

When these goals were developed by the Governors in 1989, it came as a result of a 1983 report called ''A Nation at Risk.''

That report was released by the Secretary of Education at the time, Ted Bell, who served as Secretary of Education during the Reagan administration. It described serious deficiencies in our educational system. Those results have been verified by many studies including the somewhat recent Work Force 2000 report which pointed out very importantly and very critically that this Nation is not presently prepared to compete in the international market and will be less so in the future.

Here are some of the problems that created the demand for Goals 2000. Too many of our people right now do not even graduate from high school. But much more seriously is that only half of those who presently graduate have what is considered an acceptable basic education. Even more troubling is the fact that two-thirds of that half are functionally illiterate to one degree or another. They do not have the basic skills necessary to handle an entry level job. This means that our school system turns out millions of young people each year needing remedial education before they can effectively help us compete in the world economy.

The purpose of ''A Nation at Risk'' was to raise awareness that our Nation was facing a serious crisis. The standard of living had been slipping for the past decade or more and would continue to slip if we did not raise the quality of our education.

In the late 1980's, the business community was concerned that educational reform was not being implemented, even after President Bush had convened the national education summit and the Nation's Governors had created the goals which, with the input of Congress, are now referred to as Goals 2000.

The need for progress on this issue was important to the business community. I remember very well the first meeting I had in my office as a new Senator and as member of the Education Subcommittee with a group of this Nation's top CEO's whose firms were involved in international ventures. I expected that they might come to me and say, ''We have to do something about capital gains.''

They did not. They said that we must fully fund Head Start. If the United States did not make sure that everyone had the advantage of preschool training, early childhood education, and other compensatory programs, we would not produce the kind of high school graduates who would be able to compete internationally.

Our educational failures impact the business community, especially in those areas of graduate education which are so critical to our competitive edge in high-technology fields. Right now, about 40 percent of the slots for graduate schools in critical areas of science, engineering, and mathematics go to foreign students because they are more competitive for those slots.

That used to be fine, and I remember in my own State we had many foreign students who went to graduate school and ultimately worked for IBM. These days, unfortunately, foreign graduate students are not staying here. They are not returning the advantage of their skills and knowledge to our industries. They are all going home. In other words, we are sending about 40 percent of graduates from our schools, which are the best in the world, to work for our competitors.

I wished to raise this specter because this is the kind of problem which national standards should address. When we passed Goals 2000, we set forth a set of voluntary national goals and standards. In addition to the original goals proposed by President Bush and the 50 Governors, we expanded upon the goal for math and science competitiveness and added such subjects as history and arts.

What we are talking about today is the beginning of a process of developing standards which are necessary for our ability to compete in the international economy. I would hate to think we will begin debating subjects which are important but unrelated to the more important issue of competitiveness and thereby disparage our national and worldwide standards.

Recently, members of the business community spoke about job training before the Labor Committee and said that we must enforce worldwide educational standards for our people can become qualified for the work force of the future. If people do not understand the requirements, they will continue presuming that the standards which we have been utilizing, the ones which we feel are an acceptable education, are quite all right.

People fail to realize that students in Taiwan graduate 2 years ahead of our students in science and math. In addition, studies show that not only are we removed from the list of top nations in science and math achievement, but that we are at the bottom of the heap.

My point is that we must concentrate on why the Goals 2000 bill was developed. It was deemed necessary to improve the standard of living of the Nation: To improve our standards and our competitiveness. While it is important for us to stay informed about recommendations for important subjects such as history, I am concerned that we will begin to forget why we are here, and that is to save the Nation.

I will introduce a second-degree amendment at an appropriate time which will address the concern of my good friend, the Senator from Washington, regarding the development of certain standards at the UCLA Center for History in Schools, those standards

which have raised considerable controversy. But we must remember that those standards have not been adopted by anyone, and they are not in a form to be adopted. In fact, the panel which would approve them has not even been named yet. So we are prematurely criticizing something which is not even ready to be adopted.

But more importantly, the amendment requires that anything meritorious or relevant or acceptable that is in those standards should not be used. Now, I am not sure whether that means the acceptable elements could be proposed and later approved, or not. The amendment does not say. It simply states that the standards cannot be used and that no more money can go to them.

Therefore my amendment will leave in the final paragraph of the amendment of the Senator from Washington, which states the concern about how we adopt the history standards, but will remove that part which states that we should simply throw away everything that has been done in this area and prohibits the information from being used.

Out of a very substantial number of examples in the history standards, only a very few have provoked great controversy. Therefore, I will speak again later, when I offer my amendment. But I just want everyone to realize that the critical goal is to have an educational system second to none which will keep the United States competitive in the next century by providing the necessary skilled work force.

I will also mention the cost of doing nothing and the cost of trying to do away with these standards. Right now, over $25 billion each year are spent by our businesses on remedial education because of the failures of our school system. In addition, we have about a half a trillion dollars loss in the economy due to illiteracy, imprisonment, and the many other social ills that result from educational shortfalls. This is an extremely important issue, and I hope that we will remain focused on the primary issue of developing a more competitive nation for the future.

Mr. President, I must oppose the amendment offered by my colleague from Washington. The amendment, which has not been subject to any hearings or review by the committee of jurisdiction, prohibits the National Education Goals Panel and the National Education Standards and Improvement Council from certifying any voluntary national content standards in the subject of history.

As my colleagues may recall, under the Bush administration grants were awarded to independent agencies, groups, and institutions of higher education to develop worldclass standards in all the major subject areas.

The history standards were developed by the UCLA Center for History in Schools with the contribution of hundreds of individual teachers, scholars and historians. The standards, which have just recently been published, have raised concern among some readers. Criticism has focused not on the standards themselves but upon the examples of activities for students in each grade level. Of the thousands of examples, not more than 25 were considered controversial. However, upon receipt of public input and criticism the Center for History in Schools is reviewing and altering its work. This, in fact is, and should be, the appropriate process and primary purpose of public commentary.

But, I am not here to defend the specific content of these standards—that is best left to teachers, educators, and parents. Instead, I am concerned that this amendment has much broader implications.

At issue is not so much the specific substance of these standards. Indeed, the standards have neither been endorsed by any Federal body nor, for that matter, even been finalized. Rather, the issue is whether or not we have in place a process for developing world class standards. I cannot overstate the importance of this matter. Countless reports have outlined that our country is falling behind in international test comparisons because our children have not learned the necessary skills in order to compete successfully.

A recent survey of Fortune 500 companies showed that 58 percent complained of the difficulty of finding employees with basic skills. The chief executive officer of Pacific Telesis reported: Only 4 out of every 10 candidates for entry-level jobs at Pacific Telesis are able to pass our entry exam, which are based on a seventh-grade level.

It is no longer enough for Vermont to compare itself to the national average. Comparing one State with another is like the local football team believing itself to be a champion of national stature because it beat the cross town rival. No, we must compare ourselves with our real competitors—the other nations of this global marketplace. To date, it appears that they are quickly outpacing us in many pivotal areas.

I have had meetings upon meetings with the chairmen and CEO's of major U.S. corporations to urge me to support the development of high academic standards. Why? Because the status quo in our schools has failed. Too many of our graduates finish school without knowing the three R's, much less more rigorous content standards. For our country to remain competitive, it is essential that our schools prepare our future work force for the demands of the 21st century. Unfortunately, until we present our students with challenging content standards that goal will not be realized.

Instead, estimates indicate that American businesses may have to spend up to $25 billion each year just for remedial elementary math and reading instruction for workers before they can train them to handle modern equipment. Not only does this drain critical funds from our corporations but it dramatically affects our ability to compete in the global marketplace.

For the past decade the average wage has gone down. The standard of living is slipping and wealth is accumulating only at the top.

Until we are able to prepare our children for the future we will have failed ourselves, the next generation and this country. The first step to success is establishing strong academic standards so that our children leave school ready for the work force or for postsecondary education. Remedial education should not be the main function of our institutions of higher education or our businesses and corporations. By preparing our students while they are in school, we will reduce the need for catchup courses so many of our graduates now have to take.

We have a process in place to get our children ready for the 21st century. That process includes reforming our school and creating high benchmarks for students. That process is done through the National Council on Education Standards and Improvement. NESIC will be a 19-member council composed of professional educators, representatives of business, industry, higher education, and members of the public. The council is authorized to certify voluntary national education standards and pass their recommendations to the goals panel for final approval. The role of the council is to certify that the standards developed in each subject area are credible, rigorous and have been developed through a broad-based process.

NESIC provides a mechanism for ensuring that standards remain national rather than Federal. If this duty was not being performed by such a council, the responsibility for certifying national voluntary standards would fall squarely upon the shoulders of the Secretary of Education—which would positively result in greater Federal involvement.

This body is a separate entity created to oversee the certification of voluntary national standards. It has absolutely no oversight authority over States. In other words, States are not required to agree with the voluntary national standards, they are not required to accept or incorporate any portion of the national standards or even acknowledge existence of standards.

Yet such a national council is essential to States and local schools to assist them in weeding out and reviewing voluntary standards. Without such an entity, each State will have to undertake that review by itself. To do that 50 times over simply does not make sense. Clearly, the recommendations of the council are not binding on States. The council's certification process is simply a Good Housekeeping seal of approval to assist States in determining which standards are rigorous and competitive.

For us to step in and derail this process makes no good sense. By passing

this amendment and legislating a Federal override of NESIC's responsibility we not only jeopardize the whole independent nature of NESIC, we also jeopardize the process of creating tough academic standards. I don't think we have that luxury.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if I may enter into this debate for a moment from a little different angle. I have enormous respect for the Senator from Vermont, who has just spoken with great dedication to the issue of education. He has devoted a great deal of time to the issue, both when he was in the other body as a Member of Congress and since he has been in the Senate and is now chairman of the Education Subcommittee of the Labor Committee.

I also can understand where the Senator from Washington is coming from in his concerns about the model national history standards which have been developed with Federal funds. However, as the Senator from Vermont has pointed out, they have not been adopted or certified as national standards yet.

There has been a lot of controversy about these standards as they have been proposed—controversy which, I may say, could have been anticipated. I was troubled when we first started down the path of providing Federal funding for the development of national standards. I would like to note that standards in various subject areas have been developed by professionals in the field, not by Federal employees as some may think. However, where Federal moneys are involved, there is often misunderstanding about the nature of the Government's involvement.

I am sure that developing these standards was very difficult for these professionals. It is far easier to develop standards, say in the field of mathematics or science, because there is more preciseness in both of those fields. When you get to history, however, so much revolves around a teacher's interpretation of the material that they may have in front of them. So I think when you get into particular areas of study like history, that it becomes much more difficult to develop standards on which there is going to be agreement. Whether it is with the particular standards we are discussing now or a totally different set of standards, I think you would find just as many people with concerns about them.

Although these are voluntary standards, as has been repeatedly emphasized whenever we have had these debates, this is a point which often gets lost. One reason I opposed the Goals 2000 legislation which was enacted last year is that it took Federal activities in this area yet another step further by including an authorization for a national council to review and endorse the national standards.

There is certainly a difference between voluntary national standards and mandatory Federal standards—but this is a distinction which is generally lost when such standards are put forward, particularly when they are likely to come before a group such as the national council which is charged with reviewing them. As one who believes strongly that the strength of our education system lies in its local base and community commitment, I have not felt it wise to expand Federal involvement into areas traditionally handled by States and localities.

I will support the Gorton amendment due to my concern about Federal involvement in national standards, even voluntary ones. At the same time, I believe the real issue is far broader than the current controversy over the history standards. Prohibiting a federally authorized council from certifying a particular set of voluntary standards is not the real answer. The real problem is that we have established in legislation such a group—the National Education Standards and Improvement Council, or NESIC—in the first place.

In the near future, I will be introducing legislation to repeal NESIC. My legislation would get the Federal Government out of the loop in an area which I believe is best handled by States and localities. Many of our States are already developing standards that the teachers and educators in the field of history feel is important for the schools in their States. But those States do not need to have a Federal seal of approval for those standards, voluntary or not. That is why I believe we may be missing the heart of this debate.

Nevertheless, I think the Senator from Washington has addressed a real concern regarding the model national history standards that have been developed with Federal funds.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I wish to speak against the Gorton amendment. I think the Gorton amendment fails to recognize the immense amount of work that has gone into trying to put this country on a road to having and pursuing higher national standards, higher standards in education throughout the country. This is work that has primarily been done by the Governors of this country. I will point out that it began in Charlottesville, when President Bush was there with our 50 Governors some 5 years ago.

Today, the National Education Goals Panel is made up primarily of Governors. There are eight Governors on this panel, there are two administration representatives, and there are four representatives from Congress. But clearly the Governors are those who set up the National Education Goals Panel. They are the ones who have led the way for this country to pursue national education goals and standards.

The Governors who currently serve on that are an extremely distinguished group: Governor Romer, Governor Bayh, Governor Fordice of Mississippi, Governor Hunt, Governor Engler, Governor Carlson, Governor Edgar, and Governor Whitman of New Jersey. They are a very distinguished group of Governors.

The amendment of Senator GORTON, in my view, would be an insult, if we were to pass this amendment, given the current state of deliberations by the National Governors and by the National Education Goals Panel on national standards. Essentially, this amendment says the National Education Goals Panel shall disapprove some proposed standards which have not even been presented for consideration before the panel as yet. It completely puts the Congress in the position of preempting the National Education Goals Panel.

It further puts us in the business of preempting the National Education Standards and Improvement Council, which has not even been established. The members of that group, NESIC for short—that is the acronym that has been applied to this National Education Standards and Improvement Council—have not even been appointed. Yet, we are here being asked to adopt legislation directing this unappointed panel not to certify certain standards which have not yet been presented to them since they are not in existence.

It strikes me that this is the height of arrogance on the part of Congress, to be stepping into an area where we have not had the leadership. Just to the contrary, the Governors have had the leadership. And we are saying by this amendment, if we adopt it: Do not take any action to approve standards. You, the Governors and the other members of this panel, disapprove these proposed standards that have not yet even been presented to you. And second, if and when we get a National Education Standards and Improvement Council appointed, they are also directed not to certify any standards along the lines that have been proposed.

I certainly agree that there are major problems with the national standards that were proposed on history. I do not think that is the issue that is before us today. This whole business of getting standards in history is something which was started by the former administration, during the Bush administration. I recall the then Chair of the National Endowment for Humanities, Lynne Cheney, let the contract at that time to have these national standards developed. She has also, I would point out, been the main spokesperson objecting to the standards that have come back, or the proposed standards.

My reaction is that clearly she is right, that there are problems with what has been proposed, and we need to change what has been proposed or, on the contrary, we need to get some

other standards adopted in the area of history before we go ahead.

But we are not in a position in my opinion as a Congress to be directing the National Education Goals Panel, made up primarily of Governors in this country, directing them as to what action to take or not to take on specific standards at this point.

The whole standards-setting process I believe has been a very healthy, forward looking, progressive effort in this country, and it has been bipartisan. It was bipartisan when it was started in the Bush administration with the Governors. It has remained so since then.

I have the good fortune of serving on a council that was established by the Congress to look at the whole issue of whether we should have national standards. That council came up with a report which said the high standards for student attainment are critical to enhancing America's economic competitiveness, the quality of human capital, and the knowledge of skills. The knowledge and skills of labor and management helps determine a nation's ability to compete in the world marketplace. International comparisons, however, consistently have shown the academic performance of American students is below that of students in many other developed countries. The standard setting process was a reaction to our concern in this area, and it is a reaction which the Governors took the lead in because of the primary responsibility for education has always been at the State and local level, and should remain there.

But we found in that council that I served on—this is a quotation from the report they came out with:

> In the absence of demanding content and performance standards, the United States has gravitated toward having a de facto minimal skills curriculum.

That is what the Governors were trying to deal with in the standard setting process. We should not allow our concern about some specific set of proposed standards which have not even been presented to the National Education Goals Panel for approval yet but we should not allow our concern about those specific standards to deflect us from the long-term objective of having standards, and holding ourselves accountable to reaching those standards. They are voluntary standards. They ought to be voluntary standards. But still they are standards. They are standards for which we believe certain benchmarks are appropriate. And clearly I believe that the standard setting process is an extremely important part of improving the American education system.

It would be a tragedy for us to step in before the first set of those standards have been presented to the National Education Goals Panel for approval and pass legislation directing how the National Education Goals Panel and the Governors who make up the majority of that group, are to dispose of standards.

So I hope very much that we will defeat the Gorton amendment. I know Senator JEFFORDS has an alternative which I will plan to support and speak for at that time. But I hope very much that the Congress does not overreach and try through this amendment that has been presented by the Senator from Washington to usurp the authority which I think has rightfully been seen as resting with the Governors of this country.

I thank you, Mr. President. I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise in opposition to the amendment offered by the Senator from Washington.

To my mind, this amendment is an unwarranted governmental intrusion into what is basically a private effort. It also constitutes micromanagement to a degree that is neither wise nor necessary.

First, the national standards that are being developed, whether in history or any other discipline, are purely voluntary. This was made clear in the Goals 2000 legislation and reinforced in the reauthorization of the Elementary and Secondary Education Act.

Second, the voluntary standards do not have to be submitted to either the National Education Standards and Improvement Council or the National Goals Panel. That, too, is voluntary. If the organization that developed the standards wants to submit them, they may do so at their own volition. It is not required.

Third, certification is nothing more than a Good Housekeeping Seal of Approval. It carries no weight in law, and imposes no requirements on States or localities. They are free to develop their own standards, and may use or not use the voluntary national standards as they wish.

Fourth, the history standards in question are proposed standards. They have not been finalized. Quite to the contrary, representatives from the National History Standards Project have met with critics and have indicated their willingness to make changes in both the standards and the instructional examples that accompany the standards. Their commitment is to remove historical bias and to build a broad base of consensus in support of the proposed standards.

Fifth, make no mistake about it, these proposed standards were not developed in secret or by just a few individuals. They are the product of over 2½ years of hard work. Literally hundreds of teachers, historians, social studies supervisors, and parents were part of this effort. Advice and counsel was both sought and received from more than 30 major educational, scholarly, and public interest organizations.

Mr. President, I strongly believe that we should not interfere with a process that is still in play. We should not inject ourselves in a way that might impede both the important work being done in this area and the effort to develop a broad base of consensus. Accordingly, I would urge my colleagues to oppose this amendment, and to support instead the substitute to be offered by the Senator from Vermont.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment offered by the Senator from Washington [Mr. GORTON]. In fact, I ask unanimous consent at this point that I be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I support this amendment because it puts the Senate on record opposing the national standards for U.S. and world history which, while not endorsed by any Federal agency, were developed with Federal tax dollars first issued in 1991. While not a Federal mandate in that sense, they are voluntary, nonetheless, I rise to speak in opposition to them because they carry the imprimatur of the Federal Government, and have the capacity to broadly affect the course of education and the teaching and understanding of history by succeeding generations of our children, the American children.

Mr. President, I should make clear, as I believe the Senator from Washington has made clear, that I support the idea of setting national voluntary standards to upgrade our education and to give us something to aim for. But I must say that the standards that were produced, the national standards for U.S. and world history that are at the core of what this amendment is about, were a terrific disappointment and may undercut some of the fundamentals, the core values, the great personalities and heroes of America and Western civilization and world history. By doing so, we put our children at risk of not being fairly and broadly educated.

While the hope of those involved at the time that these standards were authorized, which goes back some years, was clearly to encourage State and local educators to raise standards in the teaching of history to elementary and secondary school students, the draft proposed is full of the kind of valueless, all-points-of-view-are-equally-valid nonsense that I thought we had left behind—and I certainly believe we should leave behind—in the teaching of our children.

The history that many of us who are older learned in school obviously had its failings. It was not as inclusive as it should have been in many ways. But at least it provided core information about who we are as a nation and how our world and our Nation have progressed over time.

Mr. President, we have a lot to be proud of in American history. This

great idea of America grew out of the Enlightenment and was established—now more than 200 years ago—by a courageous, principled, and patriotic group of Founders and Framers who were not casual about what they were doing.

They were motivated by an idea, by a set of values, and it is part of our responsibility as this generation of adults, let alone as this generation of elected officials and national leaders, to convey that sense of our history—about which we have so much to be proud—to our children.

First, in the interest of truth, because the American idea is a unique idea and has dramatically and positively affected the course of world history since the founding of this country—not just the course of world history in a macro sense, in a cosmic sense—it has positively affected, in the most dramatic way, the course of the lives of millions of Americans and millions of other people around the world who have been influenced by the American idea and by American heroes. And we ought not to let that be disparaged. We ought not to let that uniqueness, that special American purpose, be lost in a kind of ''everything is equal, let us reach out and make up for the past exclusions in our history'' set of standards.

So to me this is consequential. I guess the social scientists tell us that our children should think well of themselves if we expect them to do good things; that they have to have a good self-image. They mean this in the most personal sense of how parents raise children, how society gives children an impression of themselves. I say that in a broader sense of citizenship, our country has a responsibility, honestly and accurately conveying some of the blemishes as well as the great beauty of our history, to give our children a sense of self-worth as Americans. And part of that is respecting the great leaders in America that have gone before.

Mr. President, these draft standards are, alternatively, so overinclusive as to lose major events in American and world history, major participants, leaders, heroes in American and world history, in a tumble of information about everybody and everything. And then, on the other hand, they are oddly underinclusive about important events, people and concepts. Robert E. Lee, Thomas Edison, Albert Einstein, Jonas Salk, and the Wright Brothers, just to name a few, appear nowhere in these standards.

Thomas Edison, whose most memorable invention has become the very symbol of a good idea—the light bulb—is not mentioned. Albert Einstein, whose extraordinary contributions to our sense of the physical universe, let alone beyond, who changed our understanding of our existence in so many dramatic ways—not mentioned. The Wright Brothers, whose courage and boldness and inventiveness, steadfastness—with the development of airplanes, flight—has dramatically affected the lives of each of us and of society—not even mentioned in these standards.

In another way, in the world history standards, slavery is mentioned briefly in reference to Greece. The only other discussion of slavery concerns the transatlantic slave trade. Slavery, to the world's shame, existed in many cultures over many centuries, and those examples are not mentioned.

The Holocaust in Nazi Germany received significant attention, as it should. But the death, persecution, and humiliation in a cultural revolution in China go by with barely a whisper. There is nothing in the cold war section of these standards, this experience that dominated the lives of most of us in this Chamber from the end of the Second World War to 1989, when the Berlin Wall collapsed. The section on the cold war does not give the reader, the student, the teacher, the sense that that conflict involved principles at all, involved ideals. It describes it, in my opinion, solely as a contest for power. There is no indication that we were fighting a battle for democracy—not just a system, a way of government, but a way of government that has a particular view of what humans are all about, and a particular view that is rooted, I think, in the idea and the principle that people have a Creator. We say it in our founding documents, ''that all men are created equal, that they are endowed by their Creator with certain inalienable Rights,'' not a casual accident of nature, but a conscious act by a Creator. Democracy is on the one hand, and totalitarianism is on the other, which denies all of that. The cold war is described blandly and revealingly in one sentence as ''the swordplay of the Soviet Union and the United States.'' Inadequate, to put it mildly; insulting, to put it more honestly and directly.

We do not need sanitized history that only celebrates our triumphs, Mr. President. But we also do not need to give our children a warped and negative view of Western civilization, of American civilization, of the accomplishments, the extraordinary accomplishments and contributions of both.

I recognize that the Federal Government is not talking about forcing these standards on anybody. These standards were always intended to be voluntary, and I recognize that the standards we are talking about are not final. They are in a draft form. But the standards, by virtue of their being developed with Federal funds, have the unavoidable imprimatur of the Federal Government. Ten thousand of these are available throughout America. It is a very official-looking text. I, for one, worry that some well-meaning official of a local school district will get hold of it and think this is what we in Washington have decided is what the teaching of American and world history ought to be all about. In fact, I have been told that text book publishers are waiting to see what happens next with these standards so they can make their own plans as to whether to adopt the draft standards wholesale. In fact, I have heard also that some school districts are close to adopting them.

I think it is particularly appropriate that my colleague from Washington has chosen this bill about mandates and Federal involvement in our society for us to speak out, to make sure that no one misunderstands these standards, to hope that teachers, parents, and students will understand the ways in which some of us feel they are deficient, and that, as the business of setting such standards goes forward from here, they will be developed with a better sense of balance and fairness and pride.

History is important. We learn from it. It tells us who we are, and from our sense of who we are, we help determine who we will be by our actions. The interest in these standards, in some sense, confirms the importance of history. And what I am saying, and what I believe Senator GORTON is saying, is that we should celebrate the vitality of that interest in history by starting over to develop standards that more fairly reflect the American experience, not to mention world history, and to particularly give better and fairer attention to the positive and optimistic accomplishments and nature of the American people.

I thank the Chair, and I congratulate my friend from Washington for taking the initiative on this matter.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just make one additional point. I heard my good friend from Connecticut and my friend from Washington.

I think it is particularly ironic that this amendment is being considered on the so-called Unfunded Mandate Reform Act of 1995. This bill that is being considered before the Senate today, the bill that is proposed to be amended, says in its preface:

> To curb the practice of imposing unfunded Federal mandates on State and local government; to strengthen the partnership between the Federal Government and State and local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local and tribal governments.

Mr. President, we did try to defer to the States when we set up the education goals panel in the legislation, the Goals 2000 legislation, last year. We established that panel with eight Governors, four State legislators. And those 12 who represent the States would be offset by six representing the National Government, two from the administration and four Members of Congress.

Now we have taken this 18-member panel, the National Education Goals Panel, set them up and given them the responsibility to review proposals that

are made for national standards. And here in Senator GORTON's amendment, we are proposing to step in before any standards have been presented to them and to legislatively prohibit them from adopting a set of as yet unproposed standards.

Now this is a Federal mandate, it is a mandate by this Senate, by this Congress to that National Education Goals Panel, made up primarily of State government representatives, and telling them what they shall and shall not do.

I, quite frankly, think it is insulting to the Governors, who are giving of their very valuable time to serve on this National Education Goals Panel, for us to be rushing to the Senate floor and passing legislation of this type before they have even been presented with anything in the National Education Goals Panel.

I am one of the two Senators that serves on the National Education Goals Panel. I represent the Democratic side. Senator COCHRAN represents the Republican side. We have not had a meeting to discuss these proposed standards. In fact, the proposed standards have not even been put on the agenda to be discussed at future meetings, and yet the Senate is considering going ahead and adopting an amendment by the Senator from Washington which says, ''Notwithstanding any other provision of law, the National Education Goals Panel shall disapprove'' these standards in whatever form they ever come to us.

Mr. President, I have no disagreement with my friend from Connecticut about the substance of the proposed standards that have been developed under the funding of the National Endowment for Humanities and the contract that Lynne Cheney let when she was in that position. I agree there are some serious problems there. But let us defer to that group primarily representing States and allow them at least to do some of their work before we step in and dictate the result. Particularly, let us not dictate the result as an amendment to a bill which is designed to end the imposition of Federal mandates on State, local and tribal governments.

I think it is the height of irresponsibility for us to proceed to adopt this amendment at this stage. I really do think those Governors and State legislators who are serving on that National Education Goals Panel deserve the chance to do the job which they are giving of their valuable time to do before we step in and try to overrule them and second-guess something which they well may decide not to do. I have no reason to think they are less patriotic or less concerned about a proper depiction of U.S. history than we here in the Senate are. And I think we should give them a chance to do the right thing.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, first, I should like to say with respect to my friend and colleague, the Senator from Connecticut, that it is always a pleasure to deal with him on the same side of an issue just as it is very dangerous to disagree with him and attempt to prove a case.

But as I have listened to the case presented against this amendment by three of my colleagues, one of my own party and two of the other, it seems to me that they argue in an attempt to have it both ways. Each of them was a strong supporter of Federal legislation, Goals 2000, which was designed to come up with national standards for the teaching of various subjects in our schools. Each of them, as far as I can tell, approved of spending some $2 million of Federal taxpayer money to finance a private study which resulted in these national standards.

But when it comes to our debating these highly controversial and I firmly believe perverse and distorted standards for world and American history, we are told we should butt out; we, the Congress of the United States, should have nothing to say about national standards for the teaching of American history. Or, in the alternative, the Senator from New Mexico says it is too early because they have not been adopted yet.

Would his argument be different if this commission had in fact adopted these standards? Well, of course not. His argument would be even stronger that we should have nothing to do with this process. Far better to express the views of Members of this body, and I hope of the House of Representatives, on a matter which is of deep concern to many of our citizens before some potential final action has been taken than to wait until afterwards.

But, Mr. President, this volume does not look like a rough draft. Nothing in this volume, for which we have paid $2 million, indicates that it is only tentative, it is subject to huge revisions. This is a set of standards which without regard to whether or not it is approved by a national entity has already been distributed in some 10,000 copies to educational administrators and interested people all across the United States which already has behind it the force of being a national project financed with national money.

I believe it more than appropriate that this technically nongermane amendment should be added to a bill on mandates, the bill we are discussing here today. While the Goals 2000 entity, the National Education Standards and Improvement Commission, cannot enforce its judgments on the States, they will certainly be given great weight by each of these States. And that council is a Federal entity. It may well be made up of some Governors as well as some Members of this body and some legislators and the like, but it is a national body created by the Congress with a national purpose.

Nothing in my amendment, in which the Senator from Connecticut has joined, tells any Governor or State educational administrator that he or she cannot accept this book today, lock, stock, and barrel, if he or she wishes to do so. It does say that a Federal entity will not certify it as worthy of consideration as a guide for the teaching of American history. In that sense, each of these people is part of a national entity created by the Congress with a Federal purpose. Not only is it appropriate for Members to instruct such a group, I believe it to be mandatory.

We created the group. If it is our view that this is, in fact, a perverse document that should not be the basis for teaching American history, now is the time we should say so. Not after it has been adopted by several States. Not after it has been adopted by this national organization, but right now.

Opponents cannot duck behind the proposition that somehow or another they are taking no position. By voting against this amendment, they are taking the position that it is perfectly appropriate for these standards to be presented to the States of the United States as the way in which to teach the history of the United States of America.

The very individual, Lynne Cheney, then Chairman of the National Endowment for the Humanities, who came up with much of the financing for this, finds these standards to be totally outside of what she or the Endowment expected or participated.

And the critics are not from some narrow group in the United States. They represent the broadest possible mainstream of American thinking. Former Assistant Secretary of Education, Chester Finn, now at the Hudson Institute, called these history standards ''anti-Western,'' and ''hostile to the main threads of American history.'' Elizabeth Fox-Genovese, professor of history of women's study at Emory University declared ''The sense of progress and accomplishment that has characterized Americans' history of their country has virtually disappeared'' from these standards.

The president of the Organization of History Teachers, Earl Bell, of the University of Chicago Laboratory Schools, called the world history standards ''even more politically correct than U.S. history standards.'' Charles Krauthammer, writing in the Washington Post, said that these proposed standards reflect ''the new history'' and ''the larger project of the new history is to collapse the distinction between fact and opinion, between history's news and editorial pages. In the new history, there are no pages independent of ideology and power, no history that is not political.'' Herman Beltz, history professor at the University of Maryland said ''I almost despair to think what kids will come to college with. I'm going to have to teach more basic things about the Constitution

and our liberal democracy.'' Albert Shanker, president of the American Federation of Teachers, described the original draft of World History Standards as ''a travesty, a caricature of what these things should be—sort of cheap shot leftist view of history.'' Finally, of course, Lynne Cheney said ''the World History Standards relentlessly downgrade the West just as the American history standards diminish achievements of the United States,'' both calling into question ''not only the standard-setting effort but the Goals 2000 program under which these standards became official knowledge.''

In U.S. News & World Report, John Leo wrote:

> This won't do. The whole idea was to set unbiased national standards that all Americans could get behind. Along the way the project was hijacked by the politically correct. It is riddled with propaganda, and the American people would be foolish to let it anywhere near their schools.

Mark my words: To vote against this amendment is to vote approval of certifying a set of books, in this case entitled ''National Standards for United States History,'' paid for by the American taxpayer, submitted to a Federal organization for its approval. I want to repeat, we do not tell any school district or any State that if it wants to treat this as a bible that it is forbidden to do so. All we do is to tell an organization we created that it is not to certify these standards. That they are unacceptable. That they denigrate the Western and the American experience, ignore the most important achievements of our history, and that if the Federal Government wants to do this job it ought to start over and do it again with people who have a decent respect for American history and for civilization.

I am a Senator who, unlike my distinguished colleague who sits next to me here, the junior Senator from Kansas, who voted in favor of Goals 2000 and in favor of national standards. And like others now seriously must question my own judgment in doing so, if this is the kind of product which is going to arise out of that process.

I believe very firmly that if we are to have national standards, if we are to have support not only of this Congress but of the American people for national standards in education and various subjects, we must do much better than this. Not later. Not a year from now. Not 3 years from now. This is the time to say, ''This doesn't measure up.'' It does not reflect the American experience. It is not an outline of what we should be teaching our children about the history of this country, and for that matter, the history of the world.

The vote, like it or not, is on whether or not you agree or disagree with what has been produced here. Turn down this amendment, we are telling this national council ''everything is OK; approve it, and go right ahead.'' Accept the amendment and we will have a positive impact not only on the teaching of our American history but of future standards in other subjects which are still incomplete. We may yet be able to save the true goals of Goals 2000.

Mr. BAUCUS. Mr. President, could I ask the Senator a question as to his intent in the future, if the Senator would yield?

Mr. GORTON. I am happy to yield.

Mr. BAUCUS. Mr. President, I ask my colleague from Washington, Mr. President, if it would be his intent every time a standard is developed for consideration, that we in the Congress would pass legislation for or against that before the goals panel got a chance to consider it?

Mr. GORTON. My answer to the Senator from New Mexico is that is a very good question, to which the answer is ''no.''

I sense that educational goals are likely to fall into two categories, one of which is more likely to be controversial than the other. Some of the standards in other areas—for mathematics, for example, or for the teaching of physics—will, I think, be very unlikely to be found controversial or be driven by ideology.

In the case of a set of standards which come from a narrow perspective, a narrow political perspective, it is certainly possible that there will be future debates, as there ought to be. I think the future debates are more likely to be driven by public reaction to these standards than they are by the preferences of individual Members of the Senate. This Senator was made aware of the standards by the blizzard of criticism which they created almost from the day that this book was published.

Now, by the fact that so many traditional historians in the United States find them so terribly objectionable, my deep hope, I say to the Senator from New Mexico, as a member of this national commission, will be that a decent respect for American traditions in the future in this and in the study of other kinds of social services on the part of those academics who generally dominate their writing such standards, will result in no action at all on the part of the Congress, because while there may be elements of controversy and particular standards, that controversy will not reach the fundamental basis of the very philosophy or ideology out of which they arise.

So I hope that this is not only the first time that we take up a subject like this, but the last time.

Mr. BINGAMAN. Mr. President, let me just ask one additional question. The education goals panel, to which we are here giving instructions prohibiting them from taking certain action, is scheduled to meet a week from Saturday here in Washington, with Governor Bayh—I believe he is the new Chair of the education goals panel.

What is the Senator intending to do by this action, by this vote, by this amendment? What is he intending to tell that group of Governors, and others who sit on that panel, about what their responsibilities are for considering standards in the future? Should they wait until we get some reading from the Congress as to whether or not there has been too much public concern?

I am just concerned that we are setting a precedent which essentially makes their job irrelevant or their role irrelevant if we are going to have public debates in the Congress and pass mandatory legislation dictating how they are to proceed every time a new set of proposals comes forward.

Mr. GORTON. Mr. President, I say to my friend from New Mexico, there is hardly an important commission or entity or agency in the United States whose controversial decisions or operations do not create controversy or debates on the floor of the U.S. Senate.

We are elected by the people. We have strong views on particular subjects. Of course, frequently, well beyond this particular council, we are going to have debates on ideas which other people, appointed by the President or appointed by us, deal with.

As the Senator from New Mexico well knows, there is not the slightest doubt that we will be engaged in a debate sometime later this year on the future of the Corporation for Public Broadcasting, and Members will attack and defend the way in which Federal money is spent by that independent organization, as it is by a myriad of other organizations.

As for the meeting a week from Saturday of this particular Commission, I would be astounded if this amendment were the law by then. Certainly the speed with which we have dealt with this unfunded mandates bill so far hardly indicates that it is going to be through this body and the House of Representatives, the differences between the two settled, on the President's desk and signed by the President by a week from Saturday.

So I suspect that legally, at least, that Commission will be perfectly free a week from Saturday to take whatever action it wishes.

I strongly suspect that many of those who are elected to positions in their own States and are appointed members of this Commission may have reached the same conclusion that I and others have at this point, and I strongly suspect that they will give great weight to the way in which this vote comes out. But they are going to give that great weight either way.

If we vote in favor of this amendment, even though it has not become law, I think that will greatly influence that council in rejecting these standards. By the same token, if we turn down this amendment, my opinion is that many members of that council will, in effect, say the Congress has approved these standards and they ought to go ahead and do so themselves.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GORTON. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued the call of the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I thank the Chair.

I rise to speak about where we are at this time with this bill, to make the point that I have been basically on my feet since 12 noon trying to offer a very important and timely amendment that has bipartisan support, that is about an issue of great importance to the people of this country because, indeed, it is about law and order in this country.

On December 30, there was a horrible shooting in Massachusetts at a health care clinic.

The following day there was a shooting in Virginia, at a health care clinic. Obviously, at that time, the U.S. Senate, this 104th Congress, had not taken its place here and we were unable to respond, as I know we would have in a timely fashion, to condemn the violence and to call on the Attorney General to take the appropriate action to ensure the safety of those innocent people at those clinics around this country. As soon as I got back here I made a number of calls to Democrats and Republicans and I put together a resolution which currently has 21 cosponsors, some of them from the Republican side of the aisle.

I knew that this Senate had a lot of important business, but I also believed in my heart we would take 60 minutes or 30 minutes, or some time to go on record, speaking out as Americans—not Republicans, not Democrats—Americans speaking out against that violence.

I was very hopeful when I heard the majority leader, the new majority leader, Senator DOLE, speak out on national television, condemning the violence and saying that he was appalled at the violence. I said to myself, we will have bipartisan support so we can go on the record in this U.S. Senate. I know my Republican friends have a contract, a Contract With America or for America—or on America, some people call it—and they believe in that contract. Some of the things in there are good. A lot of it is awful, in my opinion. And they are on a timetable to move that through.

But I have to say that, while I believe the bill before us is very important—and I say to the occupant of the chair I know how much he worked, so hard on this unfunded mandates bill. I myself come from local government. I had to deal with the most ludicrous mandates in the 1980's that you could believe. I would love to be able to get a bill before us that does not go too far, that is sensible. And I want to work toward that end. I have a number of amendments that deal with it.

But I thought, as reasonable men and women, we could respond to a terrible problem we have in our country, and I was very heartened when I had bipartisan support. The Senator from Maine and I worked in a bipartisan fashion to speak to the majority leader, to speak to the new chairman of the Judiciary Committee. This goes back many days ago. Can we not set aside the bill for a very short time, the unfunded mandates bill, to take up this resolution in a bipartisan spirit and move on?

I waited. I was very patient, because I really wanted to get this done in the appropriate spirit of cooperation. The manager of the bill, someone I have grown to respect and admire and like, has been very open with me. I have to say the majority leader himself has continued the dialog with me. However, he has informed me that he does not want this to be pursued; that he will block my every effort to offer this as a second-degree amendment to the committee amendments in the hope that I can work out an agreement with some of those on the Republican side of the aisle who objected to this coming forward.

I have to say, both sides of the aisle put out what we call a hotline here to advise Senators that this was a proposal, and on the Democratic side there was no objection. There was objection on the Republican side. The majority leader would like to work this out.

I have read my amendment over. There was one phrase in it that I agreed we could change. I offered to make that change. I have to tell you, I think the amendment as it stands is very reasonable. It only has a small resolved clause:

> It is the sense of the Senate that the United States Attorney General should fully enforce the law and recommend to Congress any further necessary measures to protect persons seeking to provide or obtain or assist in providing or obtaining reproductive health services from violent attack.

I cannot imagine any reasonable person opposing that ''resolved'' clause. I have looked at it again and again. We are calling on the Attorney General to fully enforce the law and recommend to Congress any further necessary measures needed to protect decent people.

I think it is important to note that there have been over 1,600 incidents of arson, bombing, vandalism, and assault against reproductive health care clinics and the people who work there since 1977. This is not a problem that has started yesterday. Last year, there were over 130 incidents, 50 reports of death threats to doctors and other clinic workers, 40 incidents of vandalism, 16 incidents of stalking, 4 acts of arson, 4 murders, and 3 attempted bombings. That is what is going on in America.

I think we should be able to agree in a bipartisan fashion to a very simple statement that we call on the Attorney General to fully enforce the law and to come back to us if she thinks other measures should be taken. My goodness, we are not asking for more dollars here. We are not asking for anything more than the law be fully enforced and that, if for some reason, more needs to be done, that we be told about it.

I want to hold up, here, a poster which is a sample of what is being distributed across America today. It is a ''wanted'' poster, with pictures and names of physicians. The language is frightening. ''Wanted for killing unborn babies in the South Bay.'' This is from California. The language is violent language, and I hope that the people behind these kinds of posters will rethink their language.

I know they are committed to an issue that they feel deeply about. I defend their right to peacefully protest. As a matter of fact, if they were not able to do that, I would join them in that fight, I believe so much in America and freedom of speech. But I do think, again, we have often used the example: We have freedom of speech, but when we yell ''fire'' in a crowded theater, perhaps it is going to lead to something horrible.

This is leading to something horrible, to people being killed. I have met the families of these physicians who have been murdered. They lost dads and they have lost moms. I met the families of the volunteers who helped the women trying to obtain their health care, one of them a retired military person, shot down dead trying to protect women exercising their rights. So when you say, ''How can a doctor deliver babies one day and kill them the next,'' you have to think about the words that you are using.

I hope that we will come together on all sides of this issue and recognize that we resolve our problems here in America, not the way they do it in Bosnia, not the way they do it in Haiti, not the way they do it in Russia, but by fighting for laws that we think are right. And by the way, we passed one of those laws, and we did it in a bipartisan way. But it seems to me that as we went on record then, we should go on record now.

Since 1982 the Bureau of Alcohol, Tobacco and Firearms has investigated 148 clinic bombings and arson causing $12 million in property damage. Doctors working in clinics go to work every morning haunted by murderers. They have their homes picketed and their children followed to school. At one time one of the organizations mounted a national campaign called ''No Place to Hide'' complete with ''Abortion Busters Manual on How to Attack.'' They placed doctors' names and addresses on ''wanted for murder'' posters, distributed fliers listing the

times, dates, and places for picketing medical clinics and physicians' homes and churches. And other groups put out a handbook calling it a ''How-to Manual of Means to Disrupt and Ultimately Destroy Satan's Power to Kill Our Children.'' The book provides 99 covert ways to stop abortion. It advocates ''Super Glue'' for jamming locks on clinic doors, cutting off water power, breaking windows, spray painting walls, and expresses ways to use muriatic acid—I have talked to people who worked in clinics who are aware of this—including injecting it into the clinic ceilings and ventilating systems.

The book also has a recipe for homemade plastic explosives and suggestions on how to make a bomb threat and techniques for uncovering unlisted phone numbers and addresses. In a section of the book claiming to be an interview, a member of this organization says, ''I ask you what would you do if your very own child was scheduled for execution in the morning.'' And the answer comes back in this book: ''One, blow the place to kingdom come; and, be there with all the guns and ammunition in the morning just in case.''

I cannot believe we cannot take an hour's time out on a bipartisan resolution like this simply calling on the Attorney General to do all she can do enforce the law, the law that we passed in a bipartisan fashion. I have been so willing to cooperate with the majority leader, and to his credit he has been very direct with me, I will say that. But I have been blocked from offering this.

I do not ever remember blocking anyone from the other side from offering an amendment. I really might fight their amendment. I might argue against their amendment. But I never tried to block their ability to offer an amendment. I am very saddened that this is where we are. I think the American people must wonder. We are debating mandates. That is good. But that mandate law is going to take a while to be put in place. It will create a huge bureaucracy. You should be ready for it. I mean, that mandates bill will have bills make more stops than the local bus on the way to becoming a law. And we will debate that.

But this amendment is merely a sense of the Senate that puts the Senate on record in a bipartisan way. All we are saying is, ''Attorney General, enforce the law. Enforce the law even if you need to come back and tell us what else you have to do.''

We know one American who killed Dr. John Britton and his volunteer escort James Barrett outside of the clinic in Florida. He claimed it was justifiable homicide. This Senate cannot sit back. I know we move slowly, but these incidents occurred at the end of December. We have yet to go on record. I think that is wrong. I think that is horribly wrong.

So, Mr. President, I look forward to being able to get this resolution before the body. And I will continue to stay here as long as it takes so that this Senate goes on record in a bipartisan way and says this killing, this violence is wrong, and says in a bipartisan way we call on the Attorney General to do all she can to protect those clinics.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President. I will be brief.

I would like to thank the Senator from California for her words on the floor of the Senate. As I understand it, this is a sense of the Senate. It is the sense of the Senate that the U.S. Attorney General should fully enforce the law and recommend to the Congress any further, necessary measures to protect persons seeking to provide, or obtain or assist in providing or obtaining, reproductive health services from violent attack.

Might I ask the Senator, is this what she wants the U.S. Senate to go on record for?

Mrs. BOXER. If the Senator will yield, that is correct.

Mr. WELLSTONE. Mr. President, I just would like to say to people in the country, citizens around the country, that quite often—I have only been in the Senate now for 4 years; that puts me in my first term—but quite often what we could be doing, the deliberative body that we are, is while we are working on a piece of legislation when there are compelling issues before us, then we bring amendments out that we think are important whereby the Senate takes a position on an extremely important question.

I have to say, given the murders that have taken place in this country recently—and murder is never legitimate—the amendment of the Senator from California is extremely important. I think people should know that basically what has happened here is that she is blocked from offering her amendment.

Mr. President, for the life of me, I do not understand why we could not bring this amendment out on the floor, why it could not be a sense of the Senate passed. I think it is a terribly important amendment. It is a sense of the Senate, but it is an amendment that says that all of us, Democrats and Republicans alike, care fiercely about law and order and care fiercely about protecting people's constitutional rights, that we are opposed to murder, that we are willing to take a strong position on this.

So I thank the Senator for her amendment. I hope that we will be able to bring this to the floor and have an up-or-down vote.

Mr. President, if there are no other Senators seeking recognition or interested in speaking right now, I would be pleased to yield the floor. Otherwise, I would like to suggest the absence of a quorum. I would like to see whether I cannot get an amendment to the floor. But could I, first of all, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that we set aside the pending committee amendment and call up the committee amendment on page 33 so that I can offer an amendment to that amendment.

Mr. NICKLES. Mr. President, I object for the time being.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, just so my colleague from Oklahoma and others following will know what I am trying to do here, like the Senator from California, I am anxious to get on with amendments. My understanding was that the committee amendment on page 33, if we could put aside this committee amendment and move to that committee amendment, I might be able to offer an amendment to that amendment.

I do not think it is an amendment that is controversial. I am trying to get an amendment up on the floor which deals with the whole issue of whether or not as a part of how we look at accountability committees would not be required, if they were going to file reports, to have a child-impact statement. So it is an amendment that is straightforward. I am prepared to agree to a time limit. It is an extremely important amendment. That is the amendment I am trying to bring to the floor.

I gather that my colleague from Oklahoma has not changed his view on this matter. Mr. President, I have tried with all my might, and I am blocked from bringing up the amendment at this point. I am anxious to get going with amendments and a discussion, and I hope soon there will be some sort of break in this impasse.

Mr. President, I yield the floor.

Mr. GLENN. Mr. President, what is the legislation before us now? Exactly what is the pending business?

The PRESIDING OFFICER. The Dole amendment to the Gorton amendment.

Mr. GLENN. The Dole amendment would modify the——

The PRESIDING OFFICER. The Dole amendment is an amendment to the Gorton amendment.

Mr. GLENN. Second degree.

The PRESIDING OFFICER. That is correct.

Mr. GLENN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I rise in support of the amendment offered by the Senator from Washington, which addresses the issue of national standards in the area of U.S. history and world history.

This amendment is very appropriate in light of the discussions which have recently occurred and the presentation which has been made now by this national standards proposal.

The question which is before us really is: Is it appropriate for the Federal Government to be in the business of setting national standards which, although voluntary in name, in actual fact may end up being standards that will be used throughout the country and will inevitably be enforced upon many school districts in this country?

Once you have a group which has been funded by the Federal Government to the tune of $2 million, producing a set of national standards in any curriculum activity, it is inevitable that those standards will be used by local groups within activist educational communities to try to force that curriculum on local school boards and local school districts. In fact, I think it is logical to presume that once a national standard has been set and defined by some group which has received the imprimatur of the Federal Government, you will see that that standard is aggressively used as a club to force local curriculums to comply with that national standard.

This is something that concerned me greatly when we took up the issue of Goals 2000, and I argued aggressively at that time that it was a mistake to set up this national school board called NESIC. By setting up that national school board you were essentially creating a situation where the term ''voluntary'' was actually illusory. You would end up where the Federal Government would start defining what would be in the curriculum of the local school districts, and they would have to comply with that not only because local educational activists would start litigating for compliance and claiming that local school districts which were not in compliance were therefore not teaching properly, but also because of the fact that funding from the Federal level will inevitably, at some point, be tied into whether or not local school districts are complying with these national standards.

In fact, when we took up the elementary and secondary school bill, that was the exact attempt that was made. It was fought off here in the Senate by those of us who were members of the conference committee, and it did not end up being the final law. But it was an aggressive attempt made to apply to local school districts national standards in the area of opportunity to learn, and those national standards were going to be enforced on the local school districts by using the funding mechanisms of the Federal Government as a club to require compliance.

And so now we have a curriculum exercise coming again from the national level which will inevitably, in my opinion, lead to a top-down directive as to how a curriculum should be structured in this country. There are a lot of problems with that, but there are especially a lot of problems with that when the curriculum which is designed, and which is being put forward by the national organizations, is so biased and so editorial in comment.

This is a curriculum which spends very little time addressing the substance of history and the facts of history and spends a great deal of time presenting the editorial comment on history and a revisionist view of history. As has been mentioned before, within these standards, eight times we see the American Federation of Labor mentioned. We see Senator McCarthy mentioned 19 times. Ku Klux Klan is mentioned 17 times. Granted, the American Federation of Labor did have a major impact on American history, and Joseph McCarthy had an impact—passing at best—on American history. The Ku Klux Klan was a representative of a reprehensible period in our history. But if you are going to put that much time into those types of activities, why and how could you possibly ignore the mention, as has been pointed out here, of the undertakings of people like the Wright Brothers, Thomas Edison, Albert Einstein? It does not really get into the issue of who the combatants were in World War I, or the factual events that created the War of 1812, and what the battle of New Orleans was all about, for example. If you want to take a historical event that ought to at least be pointed out in our history books, that allowed for the opening up of the entire West. It would not have occurred without it. That list goes on and on.

Then in the area of discussing how we as a culture came together, the fact that we are a Western-based culture appears to be something that this historical standard which is being promoted here tries to ignore, possibly even reject, and certainly undermines, as it spends an incalculable amount of time pressing the logic that should be taught as being the logic of Muslim scholars and scholars who really have very little relevance to what is the core culture of the American society, which is Western, whether you like it or not; that is what we come from. You cannot really understand America's heritage unless you understand our Western culture. You also cannot understand our Government, or the way we function, unless you at least have passing knowledge with people like Henry Clay, Daniel Webster, and even historical figures like Paul Revere, and the people who fought for the Sons of Liberty in Boston. Yet, these individuals who played a fairly significant role in defining our course in history as a Nation are virtually ignored.

History is about individuals, whether you like that or not. History is about individuals. Individuals have a major impact on the course of our lives. The study of major individuals within history is necessary if you are going to understand the course of history.

You cannot possibly understand 20th century world history unless you understand Adolf Hitler, or Joseph Stalin, or Lenin. You cannot understand American history unless you look at people like Daniel Webster and what he did, or Thomas Edison and what he did, or Albert Einstein and what he represented, or the Wright Brothers and what they represented.

Yet, this new curriculum would essentially ignore the concept that individuals matter and would base its thought process on a revisionist view of what history is and how individuals impacted it.

The proposal, as it comes forward, for all intents and purposes, ignores the cold war as a confrontation of ideology. The Soviet system, which was an outgrowth of Marxism, does not even discuss the concept, for all intents and purposes, that it was the United States culture of freedom, of individuality, of individual rights going up against a culture of totalitarianism, of collectivism, and of the usurpation of the individual and the replacement of individual rights with the right of the State. That confrontation, over which this country spent billions of dollars and lost many, many American lives is, for all intents and purposes, passed over as a casual event, an event that is not of enough significance to spend a great deal of time on or an event which is caricatured through the representations of somebody like Joseph McCarthy.

The rewriting of history, I believe, we found throughout various cultures is extremely risky. A culture that lies to itself about what its history was, tries to undertake revisionist history and teaches its children revisionist history, is a culture that is going out on thin ice. This was seen in most recent examples in this century in the Soviet history system or in the Chinese history system as it presently exists today or, of course, in the German history system of the 1930's and early 1940's where, essentially, people who have a political philosophy—totally repugnant, of course, in our terms, but it was a political philosophy—defined history in terms of their political philosophy.

One cannot look at this book which has been proposed on American history and not conclude that what we have here is a group of folks who wanted to define American history in the terms of their political philosophy. They have, it appears, only a passing interest in factual history; virtually no interest, actually, in factual history; and a deep interest in cultural history, but it is a cultural history which they are

going to define in their terms and under their procedure. OK, if they want to view history that way, that is their decision. If that is the way these folks who have decided to rewrite American history wish to view our times and the times of our ancestors, that is their decision. But the problem here is that they are taking that view of the world and they are putting it upon educational systems throughout this country by having it nationalized and having it receive the imprint of appropriateness, the seal of correctness, through Federal financing and what will probably be Federal activity through the national school board, NESIC.

And that is what is wrong with it. It is not only incorrect history, in my humble opinion—and I guess people can disagree with that—and very much revisionist history and politicized history and editorialized history, but it is also an attempt to take that editorial viewpoint and subject school districts throughout this country to it by designating it as the correct history.

Well, I do not believe that the Federal Government should be in the business of defining the correct history. And I certainly do not feel it should define the correct history for the State of New Hampshire or for the school systems within my State. And I especially do not appreciate it when that correct history is so grotesquely biased in its presentation.

There was some discussion earlier by a Senator as to the effect of the drafting of this even if it is not endorsed by NESIC. I think we need to look at that, because this is the first exercise of this nature that has come forward.

I am extremely concerned that, because of the nature of the community of historians who dominate the intellectual process of defining our history in this country, we are going to find that this correct history will become the standard of the new textbooks.

Anybody who has had the experience of dealing with American history textbooks knows that they go in sort of fads. They go through periods of one textbook being in and the next textbook being appropriate. And because textbooks are so expensive for school systems and so expensive to produce, they tend to be single entities that become very big best sellers and dominate the curriculum within the school systems.

My concern is that what we have created here is the ability of an insidious monster. I guess all monsters are insidious, but this one is especially so because, as a practical matter, what we have created here is the core of what I suspect textbooks are going to look to. Because if you are a textbook creator and a writer or publisher, you are going to say you want to pick the course of least resistance and the easiest approach. You are going to say, ''Well, here is the Federal Government that spent $2 million to produce this cultural treatise. Why should I go out and reinvent the wheel? I am just going to take over what has been done by the Federal Government. After all, it has been done by the Federal Government, so who could ever argue with me,'' I, the publisher, ''if I undertake the republication of this document basically in the form it was produced?''

And so we have created a situation where, I suspect, inevitably the core elements of this cultural document will end up being part of the text in a textbook initiative which will be promoted across the country, and it will have been done at taxpayers expense and at our history's cost. And that will be unfortunate.

I hope that the publishers of this country who produce our textbooks will take note of the debate on this floor and sense the significant concern that is being expressed here about the quality of the workmanship of this product, because it is not good quality and it does undermine the teaching of history in this Nation, in my opinion.

So I wish to associate myself with the comments of the Senator from Washington.

I also wish to associate myself with the Senator from Kansas when she came to the floor earlier and stated that she intended to offer an amendment to repeal NESIC and end this national school board experiment. It should never have been proposed in the first place. It was a mistake and we should terminate it right now. The Federal Government does not have a role in this area, and it certainly should not be putting taxpayers' dollars at risk in this area.

I yield back my time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I thank my friend from New Hampshire for his eloquent support.

During the period of time this was actively debated between myself and the distinguished Senator from New Mexico and others, he and I have reached an agreement, which I find to be most constructive. As a result of that agreement, I intend in just a moment to ask unanimous consent to modify the Dole second-degree amendment, to modify it in a manner which would turn it from a statute to a sense-of-the-Senate resolution.

Since technically if the committee amendment to strike is ultimately adopted it will all fall. In any event, the most important, the vital part of what we are doing is really to express the views of this Senate to this National Education Standards and Improvement Council.

It will do so in the fashion that I asked for. We will have a vote on it. The vote will be far more one-sided than it would have been on the original amendment, and I have every confidence that the National Standards Council will listen to what the Senate has to say. If it does not, any Member is free to bring up the subject at any future time. This will also help the progress of the underlying bill, S. 1, itself.

AMENDMENT NO. 139 TO AMENDMENT NO. 31, AS MODIFIED

Mr. GORTON. With that in mind, Mr. President, I ask unanimous consent that the Dole second-degree amendment be modified in the fashion which I have already sent to the desk.

Mr. GLENN. Mr. President, reserving the right to object, I do not believe I will object, but I want to clarify this.

Ordinarily, a person who puts in the amendment would modify his own amendment. Is this something the Senator has worked out with the majority leader?

Mr. GORTON. Mr. President, I answer my friend, it is the second-degree amendment to my original first-degree amendment that was prepared by the majority leader as a courtesy to me. I have worked it out with his office and he agrees to it.

Mr. GLENN. Mr. President, I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 139), as modified, to amendment No. 31, is as follows:

Strike all after ''**SEC.**'' and insert:

'' NATIONAL HISTORY STANDARDS.

''(a) IN GENERAL.—It is the sense of the Senate that the National Education Goals Panel should disapprove, and the National Education Standards and Improvement Council should not certify, any voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of world and United States history, developed prior to February 1, 1995.

''(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

''(1) voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, on the subject of world and United States history, established under title II of the Goals 2000: Education America Act should not be based on standards developed primarily by the National Center for History in the Schools prior to February 1, 1995; and

''(2) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (1), the recipient of such funds should have a decent respect for the contributions of western civilization, and United States history, ideas, and institutions, to the increase of freedom and prosperity around the world.''

Mr. BINGAMAN. Mr. President, I would like to comment and thank my colleague from the State of Washington for his willingness to work with me to modify this amendment. I have devoted considerable time and effort to the National Education Goals Panel and I appreciate Senator GORTON's understanding of my concerns about the role of that Panel and especially about preserving the national character of the Panel and its work. In adopting

this amendment we are expressing displeasure with the current version of the national history standards, but we are also saying two very important things:

First, that the U.S. Senate is not interfering with the National Education Goals Panel doing its work and performing its duties under the law; and

Second, that the U.S. Senate is not interfering with the appointment of the work of the National Education Standards and Improvement Council or the performance its duties under the law.

I think these are important points to make as we take this action.

Again, my thanks to Senator GORTON for his courtesy and understanding with respect to this very important issue.

Mr. LEVIN. I want to commend Senator BINGAMAN of New Mexico, for his successful effort to modify the Gorton amendment. The modified amendment expresses a sense of the Senate but does not bind the panel on which Senator BINGAMAN serves. We have asked that panel to serve as independent persons bringing their own experiences and talents to an important task. They should not be dictated to by Washington if we wish them to sue their best judgment and to usefully spend their valuable time. The modification allows for that independent functioning to continue. I particularly commend Senator BINGAMAN for his energy in achieving the modification and to Senator GORTON for agreeing to modify his original language.

Mr. KENNEDY. Mr. President, I rise in opposition to Senator GORTON's amendment. I do not oppose the principle that national standards in history for the Nation's schools should respect our country's roots in Western civilization. I completely agree with that concept. It is vitally important that our students learn that the foundations of our democracy owe a great debt to our European ancestors.

The National Center for History in the School is the group that received the contract to develop the history standards. It has a sole source contract awarded by President Bush's Director of the National Endowment for the Humanities, Lynn Cheney. The Center agreed with critics, and it will revise the standards and reissue them this next spring.

But this amendment represents extreme congressional interference in the work of the National Education Goals Panel. This distinguished and independent group was created by President Bush, Governor Clinton, and other Governors after the Education Summit in 1989. Last year, in the Goals 2000 Act, Congress endorsed the Goals Panel and gave it statutory authority to review any standards that were voluntarily submitted to it.

A process of certification for voluntary national and State standards was established by Congress last year in title II of the Goals 2000 Act. It provides a process for a through and objective review and certification of the standards.

The distinguished Americans serving on the panel have been assigned the responsibility of making judgments on the criteria for certification and on the overall determination as to whether a specific set of standards should be certified.

The Panel includes Senators BINGAMAN and COCHRAN, Congressmen GOODLING and KILDEE, Governors Jim Edgar of Illinois, John Engler of Michigan, Daniel Fordice of Mississippi, Evan Bayh of Indiana, Jim Hunt of North Carolina, Roy Romer of Colorado, and Christine Todd Whitman of New Jersey. Secretary of Education Richard Riley is also a member of the panel.

The amendment says, in effect, that the Senate does not trust the judgment of these distinguished officials serving on the panel to carry through their responsibilities and determine whether history standards are appropriate.

In approving the Goals 2000, Congress took great care to assure that the important and sensitive process of certification would be carried out in a careful and thoughtful way. We should let the panel do its work and I urge my colleagues to reject the amendment.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I believe a rollcall has already been ordered on this second-degree amendment. Also, if there are no other persons that wish to speak, I am ready to have a rollcall vote.

Mr. BYRD. Mr. President, would the distinguished Senator add my name as a cosponsor to his amendment?

Mr. GORTON. Mr. President, I would do so now, as I have forgotten another matter. I ask unanimous consent that the distinguished Senator from West Virginia be added as a cosponsor to the amendment as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask that this Senator be added as a cosponsor to the amendment as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that the senior Senator from Texas [Mr. GRAMM] be added as a cosponsor to the original.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I believe all Senators who wish to address this particular issue have done so. It would be in order, so I suggest we go forward with the vote at this time.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment numbered 139, as modified. The yeas and nays have been ordered. The Clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—99

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Kassebaum	Shelby
Coverdell	Kempthorne	Simon
Craig	Kennedy	Simpson
D'Amato	Kerrey	Smith
Daschle	Kerry	Snowe
DeWine	Kohl	Specter
Dodd	Kyl	Stevens
Dole	Lautenberg	Thomas
Domenici	Leahy	Thompson
Dorgan	Levin	Thurmond
Exon	Lieberman	Warner
Faircloth	Lott	Wellstone

NAYS—1

Johnston

So the amendment (No. 139), as modified, to amendment No. 31, was agreed to.

The PRESIDING OFFICER. We now have amendment 31, as amended, before the body.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I would suggest the absence of a quorum.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KEMPTHORNE. Mr. President, I object.

The PRESIDING OFFICER. Objection has been heard. The clerk will continue the call of the roll.

The legislative clerk continued with the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if I might have the attention of Mr. KEMPTHORNE and the managers on our side?

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I note in both committee reports, the report by

the Committee on Governmental Affairs and the report by the Budget Committee, the following language—page 12 of the committee report from the Committee on the Budget; page 15 from the committee report of the Committee on Governmental Affairs. Let me read this. Then I want to make an inquiry.

Mr. President, I read as follows. I will presently read from the report of the Committee on the Budget, page 12:

This section provides two new Budget Act points of order in the Senate. The first makes it out of order in the Senate to consider any bill or joint resolution reported by a committee that contains a Federal mandate unless a CBO statement of the mandate's direct costs has been printed in the Committee report or the Congressional Record prior to consideration. The second point of order would lie against any bill, joint resolution, amendment, motion, or conference report that increased the costs of a Federal intergovernmental mandate by more than the $50,000,000, unless the legislation fully funded the mandate in one of three ways:

1. An increase in direct spending with a resulting increase in the Federal budget deficit (unless the new direct spending was offset by direct spending reductions in other programs);

2. An increase in direct spending with an offsetting increase in tax receipts, or

And this is the one I wish to ask Senators to pay close attention to.

3. An authorization of appropriations and a limitation on the enforcement of the mandate to the extent of such amounts provided in Appropriations acts.

The Committee notes that ''direct spending'' is a defined term in the Balanced Budget and Emergency Deficit Control Act. The Committee also intends that in order to avoid the point of order under this section, any direct spending authority or authorization of appropriations must offset the direct costs to States, local governments, and Indian tribes from the Federal mandate.

Notice, ''If the third alternative is used''—in other words, authorization of appropriations—if that alternative is used, ''a number of criteria must be met in order to avoid the point of order.''

First, any appropriation bill that is expected to provide funding must be identified. Second, the mandate legislation must also designate a responsible Federal agency . . .

Let me read that again. Let me read that paragraph again.

Second, the mandate legislation must also designate a responsible Federal agency that shall either: implement an appropriately less costly mandate if less than full funding is ultimately appropriated . . . or declare such mandate to be ineffective.

This is page 12.

Mr. HOLLINGS. Page 12. OK.

Mr. BYRD. The report of the Committee on the Budget.

The same language is in the other committee report but upon different pages. Page 12, right at bottom.

To avoid the point of order, the authorizing committee must provide in the authorization legislation for one of two options:

1. The agency will void the mandate . . .

Now, this is the executive branch agency. I hope Senators will get this.

The agency will void the mandate if the appropriations committee at any point in the future provides insufficient funding to states, local governments, and tribal governments to offset the direct cost of the mandate.

2. The agency [meaning an instrument of the executive branch] can provide a ''less money, less mandate'' alternative, but this alternative requires the authorizing legislation to specify clearly how the agency shall implement that alternative.

Mr. President, I do not believe that this body should pass worrisome provisions such as this, that may lead to greater litigation and further complicate the issue. I understand that this provision—and I hope that I can verify this by one or both managers on both sides of the aisle—I understand that this provision was not in S. 993; am I correct? Of last year?

Mr. GLENN. Yes, that is correct. That is not in S. 993.

Mr. BYRD. So this was not in the bill of last year. But it is something that is new now, as it has come to the floor in the bill that is before us and is referenced in both committee reports: The Budget Committee and the Committee on Governmental Affairs. It seems to me it is incumbent on the Senate to eliminate this provision until such time as the issue is more fully debated.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. BYRD. Yes, I will be happy to yield.

Mr. HOLLINGS. Is it the Congressional Budget Office, or what executive agency is that referred to on page 12?

Mr. BYRD. It does not name the agency. It is obviously—to me—not the Congressional Budget Office. It says, ''responsible Federal agency.'' To me, it is referring to an executive branch agency, some agency in the executive branch.

Mr. HOLLINGS. Then is it not the case that we are into the separation of powers? We have a case where we could not avoid the executive, and certainly the executive cannot legislate by mandating the end of a piece of legislation.

Mr. BYRD. Absolutely. Absolutely.

Mr. HOLLINGS. Repealing the legislation, in essence, by—what does it say, mandating—''void the mandate?'' How do you void the mandate without legislation? So they have the executive agency legislating? Is that the case?

Mr. BYRD. That is the way I read it. The agency here overrules——

Mr. HOLLINGS. I thank the Senator.

Mr. BYRD. As the distinguished Senator has correctly, in my judgment pointed out, this is a separation of powers issue.

The agency will void the mandate if the appropriations committee at any point in the future provides insufficient funding to states, local governments, and tribal governments to offset the direct cost of the mandate.

2. The agency can provide a ''less money'' less mandate alternative. . . .

Here we have a Federal agency, an executive branch agency that can nullify the action of the Congress. In essence, it can repeal a law of the Congress or it can modify it. I am disturbed about that. I would like to hear——

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes. Yes.

Mr. KEMPTHORNE. Mr. President, on page 12, as you read this, you will note that it does state in parentheses—and this is very important, ''pursuant to criteria and procedures also provided in the mandate legislation.''

In other words, we do not leave this at the discretion of an agency. The agency itself will be determined by the authorizing committee. They will so state, which Federal agency will be dealing with this.

In that legislation also, I say to the Senator, they will choose one of those two options. If they choose the option that states that should a subsequent appropriations bill not provide full funds, then that authorizing committee in its legislation is going to specify to that agency the criteria upon this scaling back. If they were to choose the other option, which is should the subsequent appropriations bill not provide the funds, then, again, based on the criteria as outlined by the authorizing committee, under those directions that agency would then so state. But it would be, again, at the direction of the authorizing committee in legislation that would then have to be passed by Congress.

It does not in any way leave that to the discretion of the Federal agency.

Mr. BYRD. Mr. President, why do we leave it in the hands of a Federal agency to determine whether or not a mandate should be nullified or should be modified?

Why should a Federal agency determine on the basis of ''less money, less mandate''? Why should not the legislative branch do this? Why not require that an agency seek the approval of the Appropriations Committees and suggest a reprogramming? That is done from time to time. But why turn a decision of this sort—it is a final decision—over to an executive branch agency? It seems now we are setting up a procedure here that stands in direct conflict with the provisions of article I, section 1, the very first sentence of the U.S. Constitution, which vests all legislative power in the Congress of the United States.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes. I yield.

Mr. KEMPTHORNE. I appreciate that.

Mr. President, the triggering mechanism is on the fund amount. In other words, if they choose the option that it is to provide the funds through a subsequent appropriations bill, and that appropriations bill provides full funds, then again there is no further recourse except to implement and mandate.

Mr. BYRD. Yes.

Mr. KEMPTHORNE. If that authorizing committee chose the option that

said, in the event it does not provide full funds, that is the threshold, and if that subsequent appropriation does not hit that threshold, then that Federal agency can in fact do a scaleback. But it is based upon language by the authorizing committee. The authorizing committee directs the criteria for that scaleback. It does not leave it up to the discretion of the agency.

Mr. BYRD. Why not eliminate these two paragraphs, eliminate the risk of litigation, eliminate the risk of running afoul of the Constitution in respect to the separation of powers? This troubles me. Why have language in the bill that would open up further litigation? If we truly intend to limit or to rescind future Federal mandates and not fully fund them, then I believe such actions should be taken by the Congress.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. BYRD. Yes. I would be happy to yield.

Mr. BUMPERS. I thought for a moment that the Senator from Idaho had explained this to me. But in looking it over again, I have difficulty getting the sequence of events as to how this is going to happen and in what sequence. It says that the third alternative here—that is, the authorization for appropriations—a number of criteria must be met in order to avoid the point of order. First, any appropriations bill that is expected to provide the funding must be identified. So far so good. Second, the mandated legislation must also designate a responsible Federal agency. That is fine. We can designate the agency that will implement the mandate, that shall either, one, implement and appropriate a less costly mandate if less than full funding is ultimately appropriated, or—this is really a big ''or''—declare such mandate to be ineffective.

Does that mean that we are authorizing after we have imposed a mandate and provided the funds—it says ''or'' allow that agency to declare the mandate ineffective. So they could, if they decide, as I read this—and I want to be corrected because this is an immensely complex bill. Does this mean that agency, if they find that we have not fully funded that mandate, could provide for a less costly method of implementing it? And I assume we have designated them and given them the authority on the front end. The bill is already passed and we have given them the authority to come up with a less costly method of implementing the mandate or declaring it inoperative. Am I reading that correctly?

Mr. BYRD. That is the way I read it. I think we are opening up a Pandora's box here, if we are going to provide authority to an executive branch agency to modify or to nullify a mandate if the Appropriations Committees of the Congress do not provide the full appropriations. It seems to me we are saying that an executive branch agency can have the authority to void the entire mandate, or to determine how much of the mandate shall go into effect; ''less money, less mandate.''

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. Mr. President, in response to the Senator from Arkansas, in his sequencing scenario, the authorizing committee in its language would determine which option it chooses. If it chooses the option that states that in the event that subsequent appropriations do not provide full funding, then it so states that mandate will not become effective. That is at the direction of the authorizing committee. So that is a separate issue here. If, however, that authorizing committee chooses the other option, which is that in the event full funding is not provided in a subsequent appropriation, then a Federal agency is directed—directed by the authorizing committee—to scale back that amendment. But the criteria for the scaling back again are included in the language of the authorizing committee.

Let us say the executive agency is carrying out the direction of legislative branch. It is carrying out the direction as specified, and it does not leave these decisions to the discretion of that executive agency.

Mr. BUMPERS. If I may comment on that very last sentence, this says that if the appropriation is less than the amount this agency determines to be needed to fully implement the mandate, you are giving that agency two options as I read this. They can either cut the mandate to some extent, modify it to make the money fit the mandate, or, as I started out a moment ago, or declare the mandate to be ineffective.

I think the Senator and I both are reading this the same way now. What I am really suggesting is that this is a tremendous discretion that we are handing to the executive branch to declare that we either have not funded it fully and, therefore, they are going to cut it, or they are just going to torpedo it altogether.

Now, why would we want to give the agency that kind of authority? Obviously, we feel the mandate is important or we would not have passed the bill.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield for the purpose of the colloquy between and among other Senators, including myself, without my losing my right to the floor.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mr. KEMPTHORNE. Again, I appreciate that.

Mr. President, to the Senator from Arkansas, I can only reiterate what the process is. The authorizing committee, of necessity, has had to work closely with the appropriate appropriations committee. There has been communication, so that there is, based on that communication, based upon the progress of that bill, the authorizing committee knows if in fact the money will be appropriated. They will know that it is either a yes or no issue. So, again, they will choose the option. It does not allow—does not allow—the executive agency to make that determination as to whether or not they just rule that there is not enough money, so we are going to wipe it out, because the authorizing agency has that power, and they initiate that power in the language of the authorizing committee, which is then passed by Congress.

Mr. BUMPERS. Let me make one observation. I am not going to pursue this and belabor it any further. But as I read this language here, Senator Chiles used to say ''the mother tongue is English,'' and this is the way I read this English. The sequence would be that the authorizing committee would authorize appropriations. I assume that the authorizing committee would either say such sums as shall be necessary, or if they have a CBO figure, what it is going to implement that, they would authorize that amount to be appropriated. The Appropriations Committee on which I sit would subsequently decide, also based on what CBO says it would cost to implement the mandate, and the figure might be different than the one the authorizing committee used when they passed the authorizing legislation.

But assume for the purposes of our argument that the authorizing committee says it will take $100 million to implement this mandate; the Appropriations Committee comes along, as we usually do several months later, to discuss whether we want to appropriate this $100 million or not, because it may be that CBO by that time has said—let us assume for the purpose of argument—it will only take $90 million. So we appropriate $90 million. This Federal agency down here—as I read this, it says that if they find that our appropriation is not sufficient, after we have made our very best estimate on it, used the best information we could get from CBO, or somebody else, the agency down there says, well, you flunked, you did not appropriate enough money; this is going to cost $130 million to implement this, or $150 million.

Mr. BYRD. It might be years later.

Mr. BUMPERS. It could be. It could be any time in the future.

Mr. BYRD. Because it is every year we are talking about.

Mr. BUMPERS. Certainly. So they say that because you goofed, we are going to take it upon ourselves to vastly reduce the mandate, no matter how critical it might be—it might be asbestos, water well pollution, or whatever, and they can say we are going to either severely reduce the requirement on the cities, counties, and States, or, two, we are negating the mandate. Now you are giving them an option, Senator. Even

though we may have appropriated $90 million, to say that is not enough to get the water hot, so we are negating the entire mandate. Is that a fair reading of it?

Mr. BYRD. That is the way I read it.

Mr. GLENN. There were a number of changes from S. 993 which we brought out of committee last year. A lot of changes were made in S. 1. Most of them, I was part of. This particular change was not in S. 993, and I was not part of this.

Let me address this a little different way. The point made is a very good one. The point, basically, is that we are giving away our legislative authority when we say to an agency: You have authority to void something. I think that was probably a poor choice of words in this. What we were trying to cover in these two parts, I believe—and I ask my friend from Idaho to correct me if I am wrong—was to say where the authorizing committee put in a certain amount that in our best judgment was going to take care of this and then there were no appropriations followed up for it, then what happens? Well, what we should have said was that the agency will not be responsible for carrying out the enforcement of this mandate instead of saying the agency has the authority to void what the Congress has done—in that case, where there is no money. That is in the first case. So I think the void-the-mandate language was probably a poor choice of words in this. It was not intended to pass along legislative authority over to an agency.

No. 2 says, OK, we authorize certain things in committee to take care of this mandate, but the appropriators did not have all that money. But they said maybe it would have required $100 million. They say, well, we just do not have that; you have $60 million to carry this thing out. In that case, the agency can provide an alternative of less money, of less mandate, but this alternative requires the authorizing legislation to specify clearly how the agency shall implement that alternative. In other words, we would give scaled-back advice if that is necessary. So I think the one that the distinguished colleague from West Virginia cites here, the voiding the mandate, was probably language that should not have been in there to begin with. I think it would have been better if we said if there is no money, then the agency is not required to carry out the mandate. That would not pass authority, to void a legislative act of the Congress over to an agency.

Mr. BYRD. Under the Constitution, only the Congress has the power to enact laws, and only the Congress can appropriate moneys. If there is a need to rescind or to repeal or to modify, why does the legislative branch not do that? Why turn that over to some unelected bureaucrat—and this is no disparagement of bureaucrats, because we have to have them—why turn that over to an unelected bureaucrat, who is given no power under the Constitution? I am one who believes that the Congress cannot give away power that is vested in the Congress, and the Congress only, by the Constitution.

Mr. GLENN. If the Senator will yield, let me make an analogy here. I think we do this all the time, if it is taken in the light just stated.

Mr. BYRD. We delegate certain authority.

Mr. GLENN. Then we say there are no appropriations to carry it out. For instance, we require by law a nuclear cleanup in this country. So we say the agency is supposed to go out there—the Department of Energy—and make an assessment of all these places and do a nuclear cleanup. They are supposed to do the best job possible. In some places we will not have money appropriated to do that. The authorization is still there. And in some places we will partially fund that operation. That does not mean that the authorization should come back to Congress and be changed. It just means that the authorization is still there, but we have not been able to provide enough money to do it. So we say, ''Do what you can.''

Mr. BUMPERS. If I may make an observation, then I will withdraw from this colloquy. This would have been much better, in my opinion—and I would want to think about it because there are probably better solutions—but if the language of this bill had said: At such time as the designated Federal agency—or if at any time the Federal agency determines that the appropriated amount is insufficient to fully comply with the mandate, to execute the mandate, such agency shall report their findings to the Congress forthwith for such determination as the Congress chooses to make. Would that not solve it?

Mr. BYRD. Right.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. Mr. President, I believe, I say to my friend from Arkansas, that, as you have just stated it, in essence that is what we have provided here.

The Senator from West Virginia is correct. We should not give our power away. But we do not. We make that determination. We make that determination. If the funds are not there, we, the Congress, have stated that that mandate will not take effect. We, the Congress, have stated——

Mr. BUMPERS. I am reluctant to interrupt the Senator, but that is not the way I read it. We give the agency the right to say that they do not have to implement that mandate. If they find there is less money than is necessary to carry out the mandate, you give them the option of reducing the mandate or torpedoing the mandate. That is what the Senator from West Virginia and I are both objecting to.

Mr. BROWN. Will the distinguished Senator yield on that point?

Mr. BUMPERS. I am happy to yield.

Mr. BROWN. I thank the Senator.

I think both the Senator from Arkansas and the Senator from West Virginia are to be commended for raising this point and calling the Senate's attention to it. I think it is a valid point of concern worth looking at.

As I look on page 23 of the bill, the bill deals specifically with this provision and it is one of the three options that is laid out. These have already been noted by the distinguished Senators. One, the alternative of Congress that it has been paid for; two, the option of raising the funds and paying for them, the one you all have called our attention to; and the third alternative, where they authorized the spending and then developed options.

One of the things of great comfort to me is the specific language, because what it calls for is Congress itself to set out the procedures that the agency must follow. And let me quote, because I think it is the language that we will be concerned with.

Under (III), it says:

> Identifies the minimum amount that must be appropriated in each appropriations bill referred to in subclause (II), in order to provide for full Federal funding of the direct costs referred to in subclause (I); and

> (IV)(aa) designates a responsible Federal agency and establishes criteria and procedures under which such agency shall implement less costly programmatic and financial responsibilities of State.

And so on.

In other words, it is Congress specifically that is charged with and must set the procedures and set the guidelines. Under (bb), it says:

> Designates a responsible Federal agency and establishes criteria and procedures to direct that, if an appropriation Act does not provide for the estimated direct cost of such mandate as set forth under subclause (III), such agency shall declare such mandate to be ineffective . . .

An so on.

I think this is very comforting because it makes it clear here there is no delegation of power; that the decision as to what the procedures are is set forth by Congress, that the decision as to what the criteria are is set forth by Congress.

In the constitutional law on this area of improper delegation, I think it is very comforting and very reassuring to this Senator because, as long as Congress is the one that sets the procedure, as long as Congress is the one that sets the criteria, as long as Congress is the one that sets the standards, then the delegation is proper under the case law.

On the other hand, if this language should fail to be in there, if Congress had not taken on the responsibility of setting the criteria and procedure, then indeed we would have a constitutional question.

I, for one, appreciate the point being raised. If the Senators have further questions about it, I will be happy to respond with specific constitutional cases where the matter has been considered.

But I am at least reassured, as I look at the language on page 23 and page 24, that the fact that Congress specifically sets the procedures and criteria gives us the comfort level we need.

Mr. BIDEN. May I ask the Senator from Colorado a question on that point?

Mr. BYRD. Yes, I yield for that purpose.

Mr. BIDEN. As I read Morrison versus Olson and other separation of powers cases, the fact is that the judgment made by the Supreme Court as to whether we can or cannot delegate authority, any branch in the Federal Government may or may not delegate authority, relates not to whether they have set up procedures, but relates to whether or not the delegation of authority goes to the essence of the function of that branch.

For example, we could not set in motion here, even if we wanted to, by legislation, a proposal that said the President of the United States of America shall, under the following circumstances, not only nominate but in fact confirm a Federal judge. We could not do that. We could lay out in great detail the circumstances under which a President could take over the whole responsibility of putting someone on the bench, and that would be an unconstitutional delegation of power under the separation of powers doctrine.

Now, I would be very, very interested, because I know, and I mean this sincerely, how learned my friend is in the law. But I have made the serious mistake of teaching constitutional law on this subject for the last five semesters, and I have been forced to read all these cases. I am not suggesting that I have the book on this issue, but I am suggesting to you I have read no case where there is the ability for someone to conclude from reading the case that you can, if you set out proper procedures, delegate authority which is essentially legislative or for the President. The President could not turn around and say, ''By the way, I, by Executive order, from now on am asking the U.S. Senate to name who will be nominated for the Court and also move forward and confirm those persons.'' He could not do that.

Now, again, I know everybody does not want to prolong the debate, but I think this is a critical question, and one that the Senator from Arkansas and the Senator from West Virginia, I believe, have suggested is easily reconcilable.

For example, as I read the Budget Act, you could, in fact, have done what they did in the Budget Act. The Budget Committee retains the judgment of whether or not they will, in fact, conclude that something is within or beyond the budget resolution. They do not delegate it to an alphabet agency. They do not delegate it to another branch of Government.

So I would be very anxious—and I am not trying to put the Senator on the spot—but I would be very anxious to hear now the case law that he thinks sustains his position, or give him time to do that. And this is not meant by way of just trying to be obstreperous or to embarrass. I truly do not know of any cases that sustain the assertion made by the Senator from Colorado.

Mr. BROWN. Let me thank my distinguished friend from Delaware.

Mr. BYRD. Mr. President, I continue to hold the floor and I ask the Chair for that right.

I yield for the purpose of the colloquy.

Mr. BROWN. I thank the Senator for accommodating a dialog on this subject.

I want to mention that I think my distinguished friend from Delaware may sell himself short. He indicates he has taught constitutional law for only 5 semesters. I personally have served on the Judiciary Committee, where he has been chairman for eight semesters. I do not know how much other legal education he has engaged in, but I, at least, have found him quite informative and quite thoughtful in this area—occasionally correct, as well—in his judgments as we move forward, and I think always helpful as we look into this.

Let me suggest to my friend that if indeed what were suggested here would be to delegate a legislative function to these agencies, then I would be in wholehearted agreement with him. I think it is quite clear the intent of this bill and I think it is quite clear under the constraints we must follow that we can only delegate enforcement of policy decisions, not the function of legislating itself.

And while I hope the sponsors of this bill, which includes myself, will be open to any reasonable suggestions in this area, I must say, from looking at it, at least my conclusion is that the language we see on pages 23 and 24 is very helpful in that area, because it not only includes Congress being required to set forth procedures, as my distinguished friend referenced, it also includes specific language requiring Congress to set forth the criteria on which this judgment must be made.

So I think it is quite clear from the language that this is not a delegation of legislative authority. It is simply a requirement that they enforce criteria and procedures set down. I want to reiterate my hope that if there is an improvement in language we would consider it and look at it. I think the point is very valid. In terms of recitation of a constitutional law in this subject and specifically the cases, I think that is a valid request, a reasonable one, and I would be happy to include that in the RECORD.

Mr. President, I yield.

Mr. BIDEN. Mr. President, I know the Senator from West Virginia had the floor, and I would be guided by whatever he wishes. I can come back to this later or we could continue, whatever the Senator suggests. I have no preference in the normal order of things. I know there were other Senators here to speak on this and other issues, before me.

Maybe what I should do with the Senator's permission is gather up, since I just walked on the floor and did not anticipate being involved in this debate, some of the case law to which I refer and come back and maybe continue this debate if the Senator from West Virginia thinks that is appropriate.

Mr. BYRD. Mr. President, I hope the distinguished Senator will continue to elucidate on this point and enlighten the Senate so that we may better understand how to approach this matter.

I do not want to continue to hold the floor. The Senator from South Carolina is seeking the floor, also.

Mr. GLENN. Mr. President, will the Senator yield for a brief comment?

Mr. BYRD. I yield to the Senator.

Mr. GLENN. The agency will void the mandate, the red-flagged language, to the Senator from West Virginia. And rightly so, indicating we would be passing our authority off to an agency when we should not do that.

Now, if we come back and look at the actual language in the bill, it is not written quite that way. On page 24, in that second section, starting in the middle of the page, it says basically that the authorizing committee will designate a responsible Federal agency and establish criteria and procedures to direct that if an appropriations act does not provide for the estimated direct costs of such mandate as set forth under subclause 3, such agency shall declare such mandate to be ineffective.

It does not say it voids it. It does not pass legislative authority, the way I interpret that, but it just states the obvious. If there is not an appropriation to cover this, that the mandate becomes ineffective as of October of the fiscal year for which the appropriations is not equal to the direct costs of the mandate.

Mr. BYRD. Of course this may be 5 years, may be 10 years.

Mr. LEVIN. Would the Senator yield just on that one issue?

Mr. BYRD. I yield.

Mr. LEVIN. The Senator from West Virginia is raising a number of questions including the constitutional delegation. But there is another problem here. If an appropriations committee as many as 5 years or 10 years later is not allowed under this language to determine that a lesser appropriation will do the job, it is bound by a previous authorization bill that could be 10 years earlier, which made an estimate which may be absolutely a wild estimate. Five years later, 10 years later. An appropriations committee does not allow under this bill to make a determination that a different amount, a lesser amount, would fully fund that mandate.

That is one of the many issues that is raised with this language. Now, there are other issues. There are specificity

issues. And the Senator from West Virginia is also putting his finger on a critical constitutional issue here. I will say one other quick comment. This is the new language.

Mr. BYRD. It was not in the bill last year.

Mr. LEVIN. It was not in the bill last year. This was a language that was in a bill introduced on a Wednesday night, which went to a hearing on Thursday morning, which was intended to go to a markup on a Friday morning which we had to plead for a delay of over the weekend for the markup to a Monday morning. When we made an effort to get a committee report on this, we denied that committee report so that it could come to the floor the next day. This is the language that was not in last year's report which is very new, novel, significant language.

Now, I repeat: I am someone who supported last year's bill. But I think this goes too far and raises very significant questions which are worthy of real examination on the floor.

Mr. BYRD. Exactly, and we have a cloture motion which we are supposed to vote on tomorrow morning, which if adopted leaves us with 30 hours only. And the Senator from Michigan may have 1 hour. That is all he can have. This locks in, as the distinguished Senator from Michigan has stated, it locks in for the life of any new mandate, 5 years, 10 years, 20 years, or whatever the CBO estimates for every future year.

This means that even if we find in some future year—5 years down the road, 10 years down the road—the Senator from West Virginia may not be here if it is 20 years down the road—that a mandate can be met for less money, we nevertheless must appropriate the minimum contained in the bill that sets up the mandate for all future years.

If less is appropriated in any year, then the agency decides. We have an unelected bureaucrat who, perhaps, will make the decision under a different administration or perhaps under a different administration, last one or two administrations, different members of the Appropriations Committee, different members of the authorizations committee. We have an unelected bureaucrat making that decision.

I say that unelected bureaucrat is not only unaccountable to the people, but if we leave it in the hands of the Congress, that is where it ought to be. Then the American people know whom to vote against. They at least know whom to vote against if they do not like a mandate being cut back.

But under this process this amendment would put in place, to whom do they complain if they do not like the mandate? To whom do they complain under this process? Why do we not leave it in the hands of the Congress? That is where the Constitution puts the power under article I, the power to legislate. Article I, section 1. Article I, section 9, power to appropriate.

I am very concerned about this language, Mr. President. I should think we ought to have more time to debate this point so that we can scrutinize it, focus on it, subject it to the microscope and be sure we make a correct decision. With the cloture motion pending here, I have an amendment prepared that would strike this. It would strike it, strike the language. If the cloture is invoked tomorrow, if we cannot reach a decision today, and cloture is invoked tomorrow, that is the only amendment I can offer. I cannot offer an amendment, then, to modify. I might be able to find a way but it would be very difficult to offer an amendment, then, that would modify and bring together language that was beside the point by a meeting of the minds on both sides of the aisle. We would be prohibited from doing that.

Why not eliminate all reference to appropriations committee here? Let the authorizing committees pay for it out of their allocation. Or let them, through the pay-go process, let them provide the money. Let them raise the taxes, or whatever is required, to meet the full funding. Strike all reference to appropriations. Let us out of it.

Mr. KEMPTHORNE. Would the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. Again, there is a point I would like to make, Mr. President. The Senator stated that this locks us in.

There is nothing to preclude that in a subsequent year as we find that perhaps, now, based on actual cost, those costs have changed. It is no longer based on estimate but actual cost; that Congress can revisit that, because in keeping with the spirit of what the Senator from West Virginia has said, Congress speaks. We do not delegate. This might cause us to revisit the mandates a little more often than every 5, 10, 20 years, which is welcome news to our State and local partners.

Mr. BYRD. Well, strike out all reference to appropriations, and then the authorizing committees could review them every year if they want to.

Mr. KEMPTHORNE. Again, I know our friend from Utah has some good information on this issue that I hope he will be able to impart to the Senate.

Mr. BYRD. Mr. President, I ask unanimous consent that an editorial from today's New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 18, 1995]

WHAT'S THE RUSH ON MANDATES?

Environmentalists and others whose interests are served by Federal regulation have a name for the three main elements of what promises to be a sustained Republican effort to deregulate American society: the ''Unholy Trinity.'' The term connotes both respect and fear. There is merit in all three ideas. Yet critics fear that, taken together, they will cripple a quarter-century of Federal efforts to protect everything from the environment to worker safety.

The ideas grew out of Newt Gingrich's ''Contract With America.'' One would require compensation when property values are diminished by Federal regulation. A second would subject regulations to independent cost-benefit analysis, otherwise known as ''risk assessment,'' that could make it more difficult for Federal agencies to carry out rules. The third would make it harder for Congress to approve costly new ''unfunded mandates''—obligations imposed on state and local governments without the Federal dollars to pay for them.

These are seductive notions with big consequences. All will need careful legislative handling. Unfortunately, that is not happening with the first of the three to take legislative form—an unfunded-mandates bill that began a fast-track trip through Congress last week. The bill which contains sensible suggestions and serious flaws, received only cursory inspection by two Senate committees. It is now on the Senate floor and will hit the House next week. That is much too fast.

Unfunded mandates have long been a sore point with mayors and governors, who say the cost of carrying out Washington's agenda denies them flexibility. Under the proposed legislation, any bill imposing a Federal mandate of more than $50 million must include an estimate by the Congressional Budget Office of its non-Federal costs. It must also include the money to pay for the mandate.

A single legislator could block any new mandate that does not meet these conditions. The objection could be overridden, but only after separate votes to override in both houses. Phil Gramm, Republican of Texas, would raise the threshold by requiring 60 votes to approve an unfunded mandate.

Forcing Congress to reach a higher level of accountability cannot be a bad idea. That is why a bill of some sort is certain to pass and why President Clinton is likely to sign it. So what's to complain about? There are at least two big flaws. First, the bill sets up a two-track system that would discriminate against the private sector. Private companies would still have to obey (and pay for) Federal mandates. Unless Congress gave governments the necessary funds, they could ignore them.

That could put private businesses at a competitive disadvantage. Laws governing waste disposal, for example, require expensive landfills to prevent contamination of the underlying water table. Private waste-disposal companies would still have to build and operate these landfills, but state and local governments would not unless Congress underwrote the costs. The U.S. Chamber of Commerce, which can usually be counted on to support Republican initiatives, have complained that the bill would severely skew the marketplace.

Some environmentalists suggest a compromise: Apply the unfunded-mandates prohibition to strictly governmental functions, like education and welfare; where mandates apply to both private and public entities, both should pay. The Clean Water Act, for example, imposes equally strict rules on the discharge of both industrial and municipal wastes. Would unfunded local governments now be free to pollute? That unthinkable outcome is a real possibility under the Republican bill.

Another big problem is that the bill applies to new law and does not address the billions in unfunded mandates from old law. That could have the perverse effect of discouraging efforts to fix outdated legislation; any new law that imposes unfunded mandates could run into a Congressional roadblock—even though the new law represents a vast improvement over its predecessor.

The bill before the Senate is a carelessly drafted answer to legitimate complaints.

Senators Carl Levin of Michigan and Joseph Lieberman of Connecticut, Democrats who are sympathetic to the measure, are using every parliamentary tactic in the book to delay the bill until it is fixed. More power to them. A bill that could reshape basic relations between Federal and local governments, penalize the private sector and threaten the environment should not be railroaded.

Mr. BYRD. Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I promised the majority leader I would suggest the absence of a quorum at the end of my statement. I want to keep my commitment. I suggest the absence of a quorum.

Mr. HOLLINGS. I do not want to forgo that.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HOLLINGS. I ask unanimous consent—and then you can go ahead and object because I am not trying to stop that. Sometime, somewhere I would like to get recognized so I can speak. We will go ahead with the quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

Mr. KEMPTHORNE. I reserve the right to object.

Mr. BYRD. You cannot reserve the right to object.

Mr. KEMPTHORNE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may retain my right to the floor and allow the colloquy to continue among Senators HOLLINGS and——

Mr. HOLLINGS. There is no colloquy. I want to be recognized in my own right.

Mr. BYRD. I was trying to find a way the Senator——

Mr. HOLLINGS. It is easy to do. Everybody else can be recognized. You all have been up here for days and weeks. I never have been recognized on this score, and I would like to be recognized, but I will await my turn.

Mr. BYRD. The Senator from South Carolina was here before I was and sought the floor. I hope that he would seek recognition and get the floor. But I had to keep my commitment to the majority leader. I yield the floor. I hope the Senator from South Carolina will seek the floor.

Mr. KEMPTHORNE addressed the Chair.

Mr. HOLLINGS. Mr. President, may I get recognized?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I thank the Chair. Mr. President, I was not privy to the discussion that the majority leader had with the distinguished Senator from West Virginia, but what I would like to do is make a unanimous-consent request that the Senator from South Carolina be allowed to now speak, no amendments would be in order; that following that, we could then allow a colloquy to continue on this issue raised by the Senator from West Virginia.

Mr. HOLLINGS. Mr. President, it is quite obvious I would like to talk and without restriction, like any other Senator, like 100 of us here. I do not have to get unanimous consent. I will await my turn after amendments and after all of your rigmarole takes place. I do not think I have to go through my courteous friend, the distinguished Senator from Idaho, to be recognized. I will await my time.

Mr. HARKIN. Will the Senator from Idaho yield for a question——

Mr. KEMPTHORNE. I will yield.

Mr. HARKIN. Without losing his right to the floor. I would like to ask the Senator from Idaho, we are here, we have amendments to offer. The bill is open for amendments. Why can I not offer my amendment?

Mr. KEMPTHORNE. I will be happy to respond to the Senator from Iowa. It is because we are trying to work out an issue that deals with an amendment from the Senator's side of the aisle. I have been told that we are close, but because of the fact that a number of Senators on his side of the aisle are very concerned to protect that issue for a Senator from the other side of the aisle, we have not been able to get other approval to move forward on some of these amendments. That is the reality.

So until I am told we have resolved the issue on the Senator's side of the aisle, I felt that it was very healthy to have this discussion about the bill itself. I think it helps all of us. So that is why, with all due respect. It is because we are concerned about a Senator on the other side of the aisle.

Mr. HARKIN. Might I further ask the Senator, is there an objection on this side of the aisle then to anyone offering an amendment? Is there an objection that has been raised on this side of the aisle? I would like to ask that question for the record, and if so, I would like to know who.

Mr. KEMPTHORNE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. I object.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, could we get some idea as to how much longer we are going to have to sit here without the ability to offer an amendment? Here time is running. It is 6 p.m. We have a cloture motion that is supposed to be voted on in the morning and there are several amendments. We have not had an opportunity to offer these amendments.

Mr. HARKIN. I have one.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. In response to that, it is my hope that we are momentarily away from being allowed to go forward with an amendment, which is from the Democrat side. And, again, as floor manager, knowing the number of amendments that are there, waiting for action so we can finally have the sort of dialog that we had a few moments ago on this bill, and lay it out there—I would love nothing more. That is what I have been pushing for.

But again, I must say, with all due respect, because of legitimate concerns—and I respect this—from Senators on your side of the aisle, to protect a Senator from your side who will be offering an amendment, I assume very soon, we have not been able to move forward with some of the other amendments. That is the situation.

So I hope we are just moments away from a green light from the parties on both sides of the aisle on that amendment so we can proceed.

Mr. GLENN. Will the Senator yield?

Mr. BYRD. Mr. President, I hope this is not going to be charged up to Byrdlock.

I do not say this unkindly to the distinguished Senator.

Mr. HOLLINGS. Will the Senator yield?

Mr. BYRD. I have the floor.

Mr. HOLLINGS. Will the Senator yield?

Mr. BYRD. Yes.

Mr. HOLLINGS. The Senator knows the Senate is a continuing body, except for now. I have never seen, in my brief 28 years, this nonsense. What he wishes and hopes for and everything else—do not give me about our side of the aisle and everything else—everybody takes their turn. Things take time to work out. We cannot move forward with this amendment, or I could get recognized and talk.

Mr. KEMPTHORNE. I would suggest to my friend from South Carolina, with a great deal of respect, that I have throughout this day been floating and

suggesting unanimous-consent agreements to bring these amendments to the floor. And there has been objection from your side.

So I think I have followed what is prescribed in the Senate rules, in the spirit of trying to get the amendments. I would like nothing more than to get these amendments out on the floor so we can debate them and vote on them.

Mr. BYRD. Mr. President, so the record may be clear, there have been no objections from this Senator today.

Mr. HOLLINGS. I do not find our side objecting. I find constantly the other side objecting. That is the whole point.

Mr. BYRD. This Senator is not objecting. I think the distinguished Senator from Idaho is doing the best he can. I think he is trying to follow some injunctions placed on him from higher up. I cannot fault him for that. But I wonder how much longer we are going to be remaining in this state of limbo. We cannot offer amendments. We cannot even get unanimous consent to set aside the pending amendment and take up an amendment by Mr. HOLLINGS. Where is the problem? Why all the rush? This is what I have been saying all along.

I have been rather amused to see a new term in the legislative lexicon, ''Byrdlock.''

But is this Byrdlock? I hope this delay is not charged against Byrdlock.

Why can we not debate the bill? Why can we not offer amendments? We have a cloture amendment that is going to be voted on in the morning and scores of amendments waiting here.

If this is not putting the boot heel on the neck of the minority, pray tell me what it is? What is this? Who has the lock on the Senate now? The Senator from South Carolina has been sitting in his seat for an hour—or longer. After the last vote, he stood and sought recognition. A quorum was begun and the effort to call it off was objected to.

Then the distinguished majority leader came into the Chamber. I said I would like to call off the quorum call and make a statement. He said, ''Well, will you put in a quorum—put us back in a quorum?''

I said yes. I did not know we were going to be locked out for the next half hour or hour, or whatever it is.

I hope that we can get some idea of how much longer we are going to have to sit here in a state of limbo, and not be able to offer an amendment.

Mr. GLENN. Will the Senator yield without losing his right to the floor?

Mr. BYRD. Yes. I do not want to keep the floor. I just want to make sure this delay is not charged up to Byrdlock.

Mr. GLENN. Let me explain this. About 5 hours ago, Senator BOXER sought the floor for an amendment. There was objection on the Republican side to her bringing that up.

And she has continually sought the floor on this and tried to work this out—tried to work out the differences with those who objected to her amendment on the other side.

It has to do with a statement and with legislation she wanted to make that basically deals with abortion clinics and some protection and so on into those areas. There were some people on the other side who had been negotiating this on behalf of five or six other Senators on the Republican side. Because we are in a situation here where the committee amendments are the things being considered, still technically on the floor, only amendments to that are permitted. So she has been frozen out, as this arrangement has not been able to be worked out. She has thought a number of times this afternoon they had this worked out. She was disappointed each time; it was not worked out.

We are told now, maybe after all, maybe it is now worked out so the language in her proposal, her amendment, will now be acceptable to those who disagreed with it on the other side.

In the meantime—because only one amendment could apply, under Senate rules, because it is the committee amendment en bloc that we have been working on all this time—there have been continual amendments put in to keep her frozen out by the leadership on the other side.

That just is an explanation of exactly what has happened.

She feels, I believe now, that they perhaps are within minutes of getting approval, I believe. I do not know whether that approval has been forthcoming or not. They were checking once again for about the sixth or seventh time in the last 4½ or 5 hours. That is how we got to where we were. I think we have been referring back and forth, one side to the other. I wanted to explain exactly what the situation was and how we got here.

Mrs. BOXER. Will the Senator yield?

Mr. GLENN. It is not my—Senator BYRD still has the right to the floor. He retains the right to the floor.

Mr. BYRD. No.

Mr. GLENN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 141 TO AMENDMENT NO. 31

(Purpose: To express the sense of the Senate that States should not shift costs to local governments, and for other purposes)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. CHAFEE, and Mr. DORGAN, proposes an amendment numbered 141 to amendment No. 31.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment inserted the following:

SEC. 107. IMPACT ON LOCAL GOVERNMENTS.

(a) FINDINGS.—The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

SEC. 108. EFFECTIVE DATE.

Mr. BRADLEY. Mr. President, the amendment I propose is an amendment I talked about both with the majority and the minority staff. They understand that it is a simple sense-of-the-Senate resolution. It says very simply that this is a bill that deals with unfunded mandates of the Federal Government on the State government, and it would be the sense of the Senate that States should not apply unfunded mandates on local governments that lead to increased property taxes.

Mr. President, so far in this debate, we have focused primarily on the unfunded mandates that the Federal Government is said to impose on the States. However, I would like to take a moment to draw the Senate's attention to an equally important set of mandates. I am referring to the unfunded mandates that Governors and State legislators impose on local governments and, more important, the burden that these mandates impose on taxpayers.

Taxpayers' main concern is their total tax burden, not how this burden is divided among Federal, State, and local governments. As elected officials at every level can attest, cutting taxes and expanding services are far preferable to the converse—especially if someone else picks up the tab. However, as we all know, the person who ultimately picks up this tab is the taxpayer.

Mr. President, in order to address the burden that this form of cost shifting imposes on taxpayers, I have sent to the desk a sense-of-the-Senate resolution in the form of an amendment to this bill. This resolution simply states that just as the Federal Government should not, in the absence of careful consideration, shift costs to the States,

the States should end the practice of shifting costs to local governments, which frequently has the effect of raising local taxes.

When Governors and State legislators shift costs to local governments in an effort to cut taxes and balance their operating budgets, they are not reducing the overall tax burden; they are merely changing the collection point. Instead, what happens is that local authorities who have no other source of revenue are forced to either raise property taxes or cut services. As a practical matter, however, these services—such as fire, police, trash, and water services—are often essential to the safety and well-being of our communities. Therefore, the effect of cost shifting by State governments is, all too often, to increase local property taxes.

These State-imposed mandates and the impact they have on taxpayers are by no means inconsequential. In New Jersey, the State imposes no less than 36 separate unfunded mandates on local governments. These unfunded State mandates cost New Jersey taxpayers over $150 million each year. In my State, as in many others, the main source of local tax revenue is the property tax. In fact, local property taxes make up over 98 percent of all local tax revenue in New Jersey. Therefore, for every dollar in costs that the State shifts to local governments, these governments are forced to raise property taxes by an equal amount.

In 1991, the cost of New Jersey's property taxes was over $1,250 per person, not even per household. Since then, property taxes have only gone up. In fact, over the last 7 years, property tax collections in New Jersey rose over 64 percent and, this last year, property taxes rose faster than during any year since 1990. The upshot is that in Orange, NJ, the average homeowner saw an $800 increase in property taxes in 1994. Sadly, these homeowners were not alone. In Mansfield, the average homeowner saw a $600 increase in her property taxes in 1994. In Teaneck, the increase was $237; in Lyndhurst, $479; in Lodi, $100; in Dumont, $139; and in Alpine, the average homeowner paid over $1,000 more in property taxes in 1994 than in 1993.

Property taxes affect everyone: while homeowners pay them directly, renters pay them indirectly. In addition, high property taxes disproportionately affect those who are often the most at risk in our society. For many older citizens, especially those who live on a fixed income, high property taxes threaten their ability to remain in their homes. For many younger, middle-class families, high property taxes often mean that they must defer or abandon their dreams of owning a home.

Ultimately, Mr. President, this resolution is about honesty and responsibility. It is about honesty in how governments fund the services that they provide. It's also about responsibility and the need for government at all levels to take responsibility for its actions.

Government officials are loath to raise taxes. Yet, we also see problems in our States that need to be addressed. The result, too often, is that we pass a law, and we pass the buck. Mr. President, I am not passing judgment on specific mandates, at either the State of Federal level. In fact, many of these mandates have helped to ensure the safety and well-being of our fellow citizens. Instead, I am simply stating that if government officials, at any level, intend to pass a new regulation, they should be honest about the cost that this regulation will impose on taxpayers. They should not attempt to hide the cost by shifting it downstream. Unfortunately, rather than being honest and taking responsibility for their actions, too many government officials appear to have signs on their desks that read, ''The Buck Stops * * * Over There.''

In order to call attention to the need for government officials at all levels to fully consider the impact that cost shifting has on taxpayers, I urge all of my colleagues to vote in favor of this amendment.

Mr. President, I am joined in sponsoring this amendment by Senator CHAFEE and others.

Mr. President, I hope we will be able to get a vote on this as the pending business before the Senate.

I am prepared to move to a vote at any time. A Senator has the right to the floor when he is recognized, and I certainly would like to respect the agreements that have been struck between the minority and the majority. At the same time, when there was an open slot in the amendment process, I took advantage of that amendment slot.

It is a very simple amendment, a sense-of-the-Senate resolution. I hope it will be adopted. I have checked with both the minority and the majority, and it deals simply with the issue of State unfunded mandates on local governments leading to higher property taxes.

Mr. GLENN. I will be glad to accept the amendment on our side of the aisle.

Mr. KEMPTHORNE. If the Senator will yield, we, too, will accept the amendment on our side.

Mr. BRADLEY. I ask for the yeas and nays. I want a rollcall vote on this.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I think we have worked out an agreement. We will have two votes back to back beginning at 7:15. The first vote will be on the Bradley amendment. The second vote will be on the Boxer, et al., amendment. There will be 1 hour of debate on the Boxer amendment equally divided.

I ask unanimous consent that the Bradley amendment be temporarily set aside so the Senator from California may be recognized and that we have those votes back to back at 7:15.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Reserving the right to object, Mr. President, I would simply like to make the point that it is the Bradley-Chafee amendment.

Mr. HARKIN. Mr. President, reserving the right to object, if I might inquire of the majority leader, I understand he asked unanimous consent that we have 1 hour of debate right now on the Boxer amendment and at 7:15 vote on the Bradley amendment, then vote on the Boxer amendment right after that, and that when we get back to the bill it will be open for amendments at that point in time?

Mr. DOLE. I think, in fact, I would rather have the votes start at 7:30, if there is no objection. The first vote will be at 7:30 on the Bradley-Chafee amendment and the second vote will be on the Boxer, et al., amendment. And then it is open for other amendments. There are numerous amendments.

Mr. HARKIN. Is it the majority leader's intention to continue the Senate in session so we may offer amendments at that point in time?

Mr. DOLE. Yes.

Mr. BRADLEY. Reserving the right to object further, I do not intend to object. Could we order the yeas and nays on the Bradley amendment? I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Reserving the right to object, I ask for the yeas and nays on the Boxer, et al., amendment.

The PRESIDING OFFICER. That is not in order at this time.

Mr. BYRD. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays on the Boxer amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Would the majority leader yield for a question?

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mrs. BOXER. Reserving the right to object, I shall not. I ask the majority leader who is controlling the time on the Republican side on the Boxer amendment?

Mr. DOLE. The Senator from Oklahoma [Mr. NICKLES].

Mrs. BOXER. Then I will not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Bradley amendment is temporarily set aside.

The Senator from California is recognized.

AMENDMENT NO. 142 TO AMENDMENT NO. 31

(Purpose: To express the sense of the Senate that the Attorney General should act immediately to protect reproductive health care clinics)

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration, pursuant to the unanimous consent request.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Ms. MIKULSKI, and Mrs. FEINSTEIN, proposes an amendment numbered 142 to amendment No. 31.

At the end of the amendment add the following:

"SEC. 108. SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

"(a) FINDINGS.—Congress finds that—

"(1) there are approximately 900 clinics in the United States providing reproductive health services;

"(2) violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

"(3) organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

"(4) there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

"(5) the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services;

"(6) violence is not a mode of free speech and should not be condoned as a method of expressing an opinion; and

"(7) the President has instructed the Attorney General to order—

"(A) the United States Attorneys to create task forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

"(B) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence.

"(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack.

"(c) Nothing in this resolution shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution."

Mrs. BOXER. Mr. President, I took the unusual step of having the clerk read this resolution in full because I think that it very clearly says more than anyone could express, because it took a lot of time and a lot of people's help, that there is no place for violence in our society and that we must come together as a U.S. Senate when such violence occurs and speak with one voice.

The reason I have been so persistent for these past 2 weeks is because I feel it is essential that this U.S. Senate, the most deliberative body in the world, the one with the most magnificent traditions of debate, thought, of deliberation, that we take the time, even if it means setting aside some other business, to deal with an immediate issue.

We are working on the unfunded mandates bill. It is very complicated. It is very complicated. I happen to like the notion behind it. But as I look at some of the bureaucracy that may be created as a result of it, I have some pause. As I look at whether or not illegal immigration might be covered in it, I have some pause. As I look at its impact on children and pregnant women, the frail and elderly, on child pornography laws, child abuse laws and child labor law, I have some pause.

So it is a very complicated piece of legislation. But what is not complicated, Mr. President, to understand is that there is violence in our land and it takes many forms. If there is one area in which I believe I should make a contribution, it would be in the area of violence in America—whether it is on our streets, whether it is in the homes, whether it is in schools, wherever it occurs, including reproductive health care clinics. I have made many statements throughout this day and last week and before that on the history of violence at clinics. And so I have been pursuing a very clear sense of the Senate that the Attorney General should act fully and enforce the law and protect the decent, law-abiding citizens of this land, who happen to be in or around health care clinics.

I want to say that the manager of the bill, the Senator from Idaho, has been most gracious to me. I want to say that he has understood quite clearly how deeply I felt about this issue, and he has made every effort to bring about a resolution to my problem which, clearly stated, was I could not find a way, Mr. President, to bring this up before the body until an agreement was worked out.

The majority leader, Senator DOLE, was very straightforward with me. He said, "You need to work this out and then we will bring it up. But if you do not have an agreement with my side, we are not going to bring it up." Obviously, that set up somewhat of a problem for me.

I want to thank the Senator from Oklahoma [Mr. NICKLES] and I want to thank the Senator from Indiana [Mr. COATS] for working with me, with Senator MURRAY, and with many of the people who wrote the FACE bill, to come up with an acceptable resolution, which has just been read to the U.S. Senate.

I want to particularly thank the cosponsors of my bill. The bill that I introduced was one of the first pieces of legislation condemning this violence, which included three Republican Senators—Senators SNOWE, CHAFEE and JEFFORDS. I want to thank them very much. And I thank my original cosponsors who were there the day I introduced the bill, Senator MURRAY and Senator FEINGOLD. The other Senators who are cosponsors are Senators KENNEDY, CAMPBELL, SIMON, LAUTENBERG, DODD, BAUCUS, LEVIN, LIEBERMAN, MOSELEY-BRAUN, HARKIN, PELL, INOUYE, MIKULSKI, FEINSTEIN, KERRY, and BRADLEY. And today Senator REID and Senator WELLSTONE were added to that list.

I am very proud that we have reached an agreement so that the will of 25 Senators who believed in this enough to go on this bill will get some attention.

At this time, I will yield to the Senator from Washington, Senator MURRAY, 10 minutes.

Mrs. MURRAY. Mr. President, I thank my colleague from California, who has been very persistent on this issue and deserves a great deal of gratitude and credit from all of us for insisting that we bring before us this very important sense of the Senate that speaks to the violence that has been occurring at reproductive health care clinics in this Nation.

We are all aware of the violence that has ravaged neighborhoods throughout our Nation. And I have to tell you every time kids gather in my kitchen or I talk to my next door neighbors or my parents, the first words out of their mouths is not unfunded mandates or line-item veto, it is: "What are you going to do about the issue of violence in this country?" They tell me they fear walking in their neighborhoods, fear going to their schools, and they want to know what we are going to do.

Well, the campaign of terror that is being perpetrated against doctors and patients in reproductive health clinics is a frightening example of this violence. The message that this violence sends to our children—that the world is a frightening place—is intolerable. When they see a gunman at a clinic, it reinforces in their minds that this

world is not a safe place. It is incumbent upon us as the elected leaders in this Nation to tell our children that we will do all we can to make sure that their world is safe.

I read yesterday's Washington Post and was very struck by the article that appeared. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 17, 1995]

CLINIC KILLINGS FOLLOW YEARS OF ANTIABORTION VIOLENCE

(By Laurie Goodstein and Pierre Thomas)

Militant antiabortion activists have been waging a protracted campaign of violence against women's health clinics and the people who work in them over the past decade, creating a climate of terror long before a gunman opened fire last month at clinics in Massachusetts and Virginia.

The killings of two doctors, two clinic staff members and a voluntary escort over the past 22 months have captured national attention. But the tally of violence over the past 12 years includes 123 cases of arson and 37 bombings in 33 states, and more than 1,500 cases of stalking, assault, sabotage and burglary, according to records compiled by the Bureau of Alcohol, Tobacco and Firearms (ATF) and the clinics themselves.

''We have seen a consistent pattern, acknowledging the fact that people are willing to go to any means for their cause,'' said Ralph Ostrowski, chief of ATF's arson and explosives division. ''In the past we would have acts of violence directed at property. Now we see acts of violence directed at people.''

Nearly all antiabortion leaders say they are aware of the scope of the violence and have condemned it, and say no one in their groups is associated with such tactics. They describe the violence as an aberration.

''There is not this collective soul-searching on the part of our movement because we have been responsible and we have been nonviolent,'' said the Rev. Patrick Mahoney, director of the Christian Defense Coalition. There are ''extremists in every movement. . . . I think that extremists opposed to abortion got frustrated, felt they were losing the battle and felt it was incumbent upon themselves to resort to violence.''

The Rev. Flip Benham, director of Operation Rescue, went further and accused ''those in the abortion-providing industry'' of committing most of the violence in an attempt to discredit the antiabortion movement. He should he would soon bring evidence to Washington that would undermine the government's statistics.

However, ATF spokeswoman Susan McCarron said of the 49 people prosecuted so far, ''We found that all expressed antiabortion views. There is nothing in our cases that would show it's providers or supporters of abortion that are doing these acts, but we investigate all leads.''

Immediately after hearing the news of the killings last month in Brookline, Mass., Cardinal Bernard Law, archbishop of Boston, issued a statement asking for a moratorium on protests at abortion facilities. But his plea has been rejected by other prominent figures across the spectrum in the antiabortion movement—including Benham, Cardinal John J. O'Connor of New York and Judie Brown of the American Life League.

Like many other antiabortion leaders interviewed, Benham said he sees no connection between angry rhetoric and violent action. ''This whole thing isn't about violence. It's all about silence—silencing the Christian message. That's what they want,'' Benham said of abortion rights leaders. ''They screech and scream about us crying fire in a crowded theater. And I agree it is wrong, unless there is a fire. If there's a fire in that theater, we better call it that. Our inflammatory rhetoric is only revealing a far more inflammatory truth.''

In most cases, the violence has disrupted clinics where a large portion of staff time is devoted not to abortions but to routine women's reproductive health care—pap smears, teaching and supplying birth control methods, and treating sexually transmitted diseases. Phone calls to a dozen clinics targeted by the violence found that six of them did not even provide abortion services.

At the Women's Pavilion Clinic in South Bend, Ind., which does perform abortions, in recent years somebody has hacked holes in the roof with an ax, shot out the windows and sent repeated death threats to gynecologist Ulrich Klopfer by phone and mail, said Marni Greening, the clinic's director. Meanwhile, protesters with a group called the Lambs of Christ have regularly barricaded the doors and blockaded the driveway, undeterred by repeated arrests.

In the early hours of Mother's Day 1993, someone connected a hose to the clinic's outdoor spigot and fed it through the door's mail slot, flooding the clinic's entry room. The person or persons then poured in butyric acid, a nearly indelible substance that smells like feces and vomit and becomes more potent in water. The clinic had to shut down for 7½ weeks to get rid of the smell, Greening said.

The unrelenting and unpredictable nature of the violence has produced a resolute fatalism among the staff. Klopfer said he was shot at last week as he drove home from work. He reported it to federal marshals, but, he said: ''If it's going to happen, it's going to happen. I'm realistic enough. Look at all the people shooting up the White House, and that has a hell of a lot better security than I do.''

Owners of the Hillcrest Clinic in Norfolk, where John C. Salvi III allegedly fired about 23 shots, sustained $250,000 worth of damage in an arson case in 1984 and another $1,000 in damage in a bombing in the next year. Staff members there have stopped commenting about attacks.

At the Planned Parenthood clinic in Lancaster, Pa., clinic director Nancy Osgood remembers a 3 a.m. phone call in September 1993 when she rushed to the clinic in time to see the brick building smoldering, gutted by fire. The Lancaster facility does not perform abortions, although other Planned Parenthood clinics do.

No suspects have been arrested in that arson, although national abortion rights groups offered a $100,000 reward for tips on this and other crimes. ''Finally we have national leadership talking about this being domestic terrorism. We've said that for years,'' Osgood said.

ATF agents have arrested 49 people in 77 of the bombing and arson cases. Thirty-three cases have been closed because they have exceeded the statute of limitations. The 50 cases still under investigation include an arson at the Commonwealth Women's Clinic in Falls Church last July 31.

Damages range from $150 at a Brooklyn N.Y., clinic that was the target of two Molotov cocktails in 1993, to $1.4 million caused by an arson fire at Family Planning Associates in Bakersfield, Calif., in September of the same year. The total damage to property amounts to more than $12 million.

A federal task force of officials with the ATF, FBI, U.S. marshals and lawyers from the Justice Department's criminal and civil divisions was created in 1993, and stepped up its efforts after Paul D. Hill shot to death two people at a Pensacola, Fla., clinic last July. A grand jury is currently hearing evidence in Alexandria.

Authorities are focusing on whether there is a national conspiracy, although some officials privately note they have not found evidence to support that at this stage in the investigation. Several law enforcement officials say it is more likely they will find separate conspiracies conducted by small cadres of activists, as well as campaigns carried out by individuals.

Some of the incidents match the description of tactics in ''The Army of God'' manual that law enforcement officers found buried in the yard of Rochelle ''Shelly'' Shannon, an Oregon activist convicted of shooting Wichita doctor George Tiller, and awaiting trial on eight counts of arson at clinics in several states.

''Annihilating abortuaries is our purest form of worship,'' the manual says. It gives explicit instructions for home-brewing plastic explosives, fashioning detonators, deactivating alarm systems, and cutting phone, gas and water lines.

Some federal investigators suspect that there is no organized ''Army of God.'' They believe the manual has not been widely distributed, but may have provided guidance in several cases of arson, bombing and sabotage. The butyric acid attack on the Women's Pavilion in South Bend precisely matches tactics described in the manual.

After the recent shootings in Massachusetts, in which two clinic receptionists were killed and five people wounded, the Justice Department ordered federal officials to record every threat against clinics and their staffs, and began to enforce the civil provisions of the Freedom of Access to Clinic Entrances (FACE) law. Enacted last year, the law makes it a federal crime to physically block access to clinics, damage their property or injure, interfere with or intimidate their staff or patients.

Last week a federal judge in Kansas City, Mo., used the civil provisions of the FACE law to issue a temporary restraining order against Regina Rene Dinwiddie for threatening and intimidating staff and clients at the Planned Parenthood of Greater Kansas City clinic.

Antiabortion protesters say the law is being used to limit their freedom of speech. But federal officials are beginning to crack down on the death threats that have become increasingly common. There were about 400 death threats and bomb threats logged in 1994 alone.

On Jan. 7, signs were found posted at four clinics in Long Island saying, ''Danger: This is a War Zone. People are being killed here like in Boston. You risk injury or death if you are caught on or near these premises,'' said Karen Pearl, executive director of Planned Parenthood of Nassau County.

The threats follow clinic staff members to their homes and neighborhoods. Carolyn Izard, a nurse and clinic director at Little Rock Family Planning Services in Arkansas, arrived home one day to find her neighborhood was papered with fliers calling her a ''death camp worker.''

''It backfired on them,'' Izard recalled. ''I got calls from neighbors that told me that they supported me 100 percent and they were furious that this kind of brochure was left on their doors for their children to see.''

Curtis Stover has seen a dramatic change in the protesters' behavior in the 21 years he's performed abortions in Little Rock. ''Before, all they would do is quietly carry placards around and not do much,'' Stover said. Now, ''every other sentence is full of

the word 'murder.' Patients come in and they yell at them not to murder their babies. I've had picketers tell me I was going to die by a certain date.''

Mrs. MURRAY. In the first paragraph it says:

Militant antiabortion activists have been waging a protracted campaign of violence against women's health clinics and the people who work in them over the past decade * * * The tally of violence over the pass 12 years includes 123 cases of arson and 37 bombings in 33 States, and more than 1,500 cases of stalking, assault, sabotage and burglary, according to records compiled by the * * * ATF and the clinics themselves.

I think it is high time this Senate goes on record that we do not condone these acts of violence.

Women's health care providers across the Nation are facing bombings, arson, kidnappings, and assaults. As they go to work each day, these health care providers must contemplate the possibility that an antichoice extremist will try to kill them. The shootings at clinics in Massachusetts and Virginia are only the most recent examples.

One doctor in my State of Washington wrote to me recently and said:

Every time I walked toward the building, I thought to myself that some antichoice terrorist could have set a bomb and that my life could be on the line. Fortunately, so far I have been able to work unimpeded, but with every assault on a clinic around the country, I worry about the safety of my staff as well as that of my patients. The next time a gun is fired, it could well hit a patient or staff member. The psychological toll all this takes on clinic staff is enormous, as you can well imagine.

I ask my colleagues to step back and view this issue as a parent. That is how I view it. I have a young daughter and I cannot express the fear that I have that perhaps some day if the horrible should happen and my daughter is raped, that not only should she have to go through the trauma of an abortion, but she would have to fear for her life when she attempts to get access to safe health care.

The same article that appeared in the Washington Post yesterday has an important paragraph that we must also remember.

It says:

In most cases, the violence has disrupted clinics where a large portion of staff time is devoted not to abortions but to routine women's reproductive health care—pap smears, teaching and supplying birth control methods, and treating sexually transmitted diseases.

Let us remember that women go to these clinics for pap smears as well. Their lives have been endangered, and we need to protect them.

Last year, Congress passed the Freedom of Access to Clinic Entrances Act and the President signed it into law. The law outlaws clinic violence while protecting lawful picketing and lawful protests not accompanied by force, threat of force, or physical obstruction.

Mr. President, I fully support our first amendment rights under the U.S. Constitution. However, with the Freedom of Access to Clinic Entrances Act we properly acknowledged that violence is not a mode of free speech. It is time for all of us, no matter how we feel about the issue of abortion, to let our Nation know that we will not tolerate violence as a means of protest.

I am proud to cosponsor this sense-of-the-Senate resolution urging the Attorney General to fully enforce the law. And I urge my colleagues to support it as well. Again, I thank my colleague from California, Senator BOXER, and I yield back my time to the Senator from California.

Mr. KEMPTHORNE. Mr. President, I would like to yield 10 minutes to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Idaho for yielding me 10 minutes.

This is an important amendment, Mr. President, because it is a forceful condemnation against violence. It might be thought unnecessary to condemn violence because it is so obvious that violence is the major problem in the United States today, with the crime wave, and the major problem in the world with conflicts and wars going on all around the world. But it is important to have this forceful condemnation against violence, because people are standing up and saying that these acts of violence, these acts of murder, are justifiable homicide, which is an absolute absurdity under the law.

The distinguished Presiding Officer has been a law enforcement officer, an attorney general of Missouri. This Senator spent 12 years in the Philadelphia District Attorney's Office—4 years as an assistant, trying murder cases, robbery, rape, and arson cases, and then 8 years as district attorney of an office which handled 30,000 criminal trials a year and some 500 homicide cases.

There is no justification whatsoever for saying that murder is justifiable homicide when it is related to someone who performs an abortion.

Under the laws of the United States, Roe versus Wade and Casey versus Planned Parenthood, there is a period during which this is lawful conduct, and how anyone can say that it is justifiable homicide is an absolute absurdity.

I thank the Chair for nodding in agreement, because I make a point which is very obvious to anyone who has had any experience in law enforcement and, beyond that, to any thinking American. But in newsprint today, stories are carried about people who make this contention. And some of the public opinion polls show a response —one poll showed 3 percent of the people have this idea. It should be labeled as emphatically as possible that it is an absurdity.

When the Senate of the United States speaks out, as I am confident the Senate of the United States will speak out tonight, in condemning this kind of violence, it will make an impact. This condemnation should ring from every speaker in America who has an opportunity to speak out, from the President of the United States, to Members of the House, to Members of the Senate, ministers, priests, and rabbis from the pulpit, and anywhere anyone can make a speech.

It is atrocious when you think of 130 incidents of death threats, stalking, chemical attacks, bombings, arsons, attempted murder, to say nothing of the four murders which have been perpetrated and the fear that is being created at 900 health clinics around the country.

The point has been made, but it is worth reinforcing, that the majority of activities at these clinics do not involve abortion at all. The Appropriations Subcommittee on Health and Human Services, which I chair, will have a hearing on the range of medical services which are performed. As already mentioned: Pap smears, mammograms, other health services for women. These women are being terrified.

The resolution calls for the creation of task forces and coordination by U.S. Marshals Service; that is fundamental to help law enforcement, to have the agencies of the law work together.

There are substantial funds available at the present time; more than $1 billion available to local prosecutors on applications which would be made. I think that the Department of Justice would look very favorably upon applications which were made along this line.

There is also considerable funding in the crime bill to protect women against violence. So funds are available in additional amounts.

The final part of resolution, stating that, ''It is the sense of the Senate that the United States Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack,'' is just very, very fundamental.

Not that it is necessary, but there is an additional clause which protects first amendment freedoms of expression.

I think Cardinal Law in Boston was right on target when he made a plea to desist from any conduct which could be remotely connected with inciting violence at these clinics. First amendment freedoms have to be protected so that people can speak up.

I think that it is a very, very important statement to have this kind of a forceful condemnation against violence, especially in the context where so many people are absurdly talking about justifiable homicide.

I urge my colleagues to have the strongest conceivable vote in support of this important resolution.

I thank the Chair and yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I yield as much time as she may consume to

the Senator from Maryland [Ms. MIKULSKI] who was a very early sponsor of this resolution.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the Chair.

I thank Senator BOXER for yielding me time.

Mr. President, I rise today to speak in favor of the Boxer sense-of-the-Senate resolution. I join Senator BOXER and the other cosponsors in expressing our outrage at the recent killings of clinic workers in Massachusetts.

I wish to thank my colleague from California for offering this sense-of-the-Senate resolution. I am only sorry that we were not able to bring this to the floor in a more timely fashion. But her steadfastness in pursuing our right to speak up, speak out, and vote on this issue is really to be a source of kudos to her.

When we come to the content of this resolution, we have to say that, sadly, this is not the first time we have come to the floor to express our outrage at senseless killing of health care providers. That is what we are talking about—health care providers. We came to the floor when the antiabortion extremist Paul Hill shot and killed Dr. Gunn. We were here when Dr. John Britton and Lt. Col. James Barrett were brutally murdered in Pensacola. And we are here again tonight to decry the deaths of Shannon Lowney and Leanne Nichols and the five other individuals who were seriously injured earlier this month.

The killing must stop, and it must stop now.

It is no longer simply a protest against abortion. Peaceful protests have given away to extremism. Protest has turned to violence. This is not the American way. The United States of America, through its Constitution, provides people the opportunity to speak out, to have dissenting views, and to do it in an atmosphere that is protected by law. But, unfortunately, that is not where we are now.

For those physicians and other people who work at the Planned Parenthood clinics, doctors are being forced to wear bulletproof vests. This is the United States of America. A doctor, instead of putting on a white lab coat, must put on a bulletproof vest to meet the compelling needs of his patients; clinics are being forced to build fortresses to protect their staff; patients are being forced to use escorts to get into the clinics. And even with all of these precautions, the killings continue.

I cannot tell you how saddened I am by this. Women in this country are being sent a message that they risk their lives if they seek reproductive health care. Let me repeat that. In the United States of America, women risk their lives if they seek reproductive health care. That is an injustice.

Last year, this body adopted a rule of law—it was called the Freedom of Access to Clinic Entrances Act—to put an end to this violence. But the success of this law now rests with the Attorney General. I believe she has taken important steps to enforce this bill.

But the Attorney General must take all necessary steps to ensure that not one more health care worker loses his or her life in a facility that happens to perform abortions. The Attorney General must do all that can be done to see that no more individuals are injured, maimed or murdered. She must enforce the law so that individuals are protected from violent attack. Every effort must be made to stop the terrorism that reproductive health clinics and their staffs endure. The message must be clear: That these attacks will be met with the harshest response. And the message must be clear to the opponents of the freedom to choose, that this type of extremism will not be tolerated, and it is not American.

The violence has gone too far. It is time to return to civility, to decency, to the principles on which this country were founded. A woman should not be at risk of losing her life to get the health care she needs.

Let me say this about protests. In the United States of America people can protest. When we passed the Freedom of Access to Clinic legislation, we ensured that nonviolent peaceful protests be allowed to occur. Mr. President, I am in politics because I was a protester, a nonviolent protester who organized her community out of the basement of St. Stanislaus Church to protest the highway, a 16-lane highway, that was going to sweep through my neighborhood, taking the homes of older European ethnics, and the first black home ownership neighborhood in Baltimore.

So I know what it is like to be a nonviolent protester, to organize people in a way that is joyful, exciting, creative. Know what we did? We did not go out and beat a mayor up. We did not bomb the Secretary of Transportation. We held a festival. We held a festival to show what our neighborhoods were. And in that neighborhood where I now live and commute from Baltimore every day, stands the neighborhood that I helped save.

And by being a protester the people did not punish me. They rewarded me and sent me to the Baltimore City Council, from there, the House of Representatives, and then to be here in the U.S. Senate.

For everyone in the United States of America whose views I either agree or disagree with, I want to guarantee them the right of continued nonviolent protest. So the words of Gandhi, Martin Luther King, and that methodology is there. We are acting like these are the Bull Connors of reproductive freedom. In the old days those who were against civil rights bombed churches, killed children; Bull Connor turns the fire hoses on them. This is the same thing.

So, now, we have to stop that. We have to stop it with the law. Why do women go to these clinics? Who goes? They are ordinary women, many of whom who have no health insurance. They have bad backs, they have varicose veins, and they want to see a doctor. And their GYN is their primary care physician. That is what they want to go there for, general primary care, information about reproductive freedom, and some, because of either medical necessity or medical appropriateness, will have an abortion. That is why they go.

I call upon the religious leaders of this country to speak out against this. I call upon the Attorney General of the United States to enforce the law. Tonight I call upon the U.S. Senate to pass the Boxer resolution. Let us make sure that America is the land of the free.

Mr. KEMPTHORNE. Mr. President, I yield 5 minutes to the Senator from Maine.

Ms. SNOWE. I thank the Senator for yielding.

Mr. President, as someone who is deeply committed to ensuring choice and quality of women's health I certainly rise in strong support of the amendment that has been offered by the Senator from California. I, first of all, want to also thank and commend the Senate majority leader for ensuring the consideration of this amendment during the deliberations of unfunded mandates. This issue is very timely. It is a matter of life and death, when we consider what has happened in abortion clinics all over America. I am pleased we are able to consider this resolution. I am sorry it is under the circumstances under which we are considering it in light of what happened in Brookline, MA, with the recent killings.

This amendment is appropriate because it expresses the sense of the Senate that the U.S. Attorney General should fully enforce the law. The Attorney General must use all the tools at her disposal to protect persons seeking to obtain or provide reproductive health services from violent attacks. We have seen in recent months, regrettably and tragically, an alarming trend toward violence and terrorism against reproductive health clinics. Too often, those extremists who oppose a woman's right to reproductive health have resorted to intimidation and even violence in order to prove their point. Peaceful civil disobedience is one thing, but these acts have far crossed the line of acceptable behavior.

We are a nation that prides ourselves on our diversity, diversities of views, ideas, and values. As a nation of laws we simply cannot and we simply will not tolerate cold-blooded murder. Nor can we tolerate bombings, vandalism, assault, bombings, arson, destruction of property, and the physical prevention of people from entering medical clinics.

Yes, we are a nation of diversity, and that diversity depends first and foremost on our adherence to the laws

made by our elected representatives of the people. It is this fact that distinguishes our democracy from other forms of government and that has contributed over time to our Nation's peace and prosperity.

Last year, as we all know in response to many of these tragic incidents, the 103d Congress considered, deliberated, and enacted the freedom of access to clinic legislation. As a Member of the House of Representatives, I was an original cosponsor and worked with many of my colleagues on both sides of the aisle in both bodies in this institution, in order to ensure that it became the law of the land.

This new law makes it a Federal offense to block the entrance to a medical clinic offering reproductive services, and to use force or the threat of force to intentionally interfere with or injure anyone attempting to obtain or provide reproductive services. The Supreme Court has made clear that these rights of peaceful protest do not extend to threats and violence, as made clear in recent decisions. In a 6 to 3 ruling last June the Supreme Court ruled in the case of Madsen versus Women's Health Center that restrictions of protesters were constitutional, including the establishment of a buffer zone between the clinic entrance and elsewhere.

In 1993, the court filed a unanimous opinion in the case of Wisconsin versus Mitchell, a hate crimes case. The Court held that physical assault was not among the forms of allowable ''expressive conduct,'' and decried violence as a form of civil disobedience. But the terrorist acts at medical clinics in the past months have crossed the lines of peaceful disobedience, and they mark the beginning of an alarming trend.

According to the National Abortion Federation, 61 percent of nonhospital abortion providers report being the target of some form of harassment including personal harassment of themselves and of their families away from the facility. From 1977 to 1983 there were 149 incidents of violence against health clinics. Since then, reproductive health providers have reported almost 1,500 acts of violence. Not always shootings, not only in Norfolk and Brookline, but also kidnapping, burglary, arson, telephone threats, stalking, invasion, and vandalism.

In 1994 there were over 130 incidents nationwide of violence or harassment directed at clinics and the people who work there. In the horrifying shootings of Brookline, MA, which resulted in the tragic deaths of two women are clear indication that the violence is continuing. As many others have indicated here this evening, what kind of clinics have been targeted for the terrorist tactics? Clinics which provide not just reproductive health services, but clinics which provide essential pediatric care, prenatal care, childhood immunization, diagnosis and treatments of STD's, contraceptive services, mammograms, Pap smears and other forms of counseling for women. In fact, more than 90 percent of clinics provide these health services in addition to reproductive health services.

In my home State of Maine, Mr. President, medical clinics and physicians have been targeted. So far, thankfully, without the life-threatening violence that occurred in Brookline.

The PRESIDING OFFICER. The 5 minutes allotted have expired.

Mr. KEMPTHORNE. Mr. President, I would be happy to yield 3 additional minutes.

Ms. SNOWE. Three physicians at the Penobscot Bay Women's Health Center in Rockport, ME, decided to cease offering full services because of concern for the safety of patients and the staff after 3 years of protests.

After a week of picketing and threats, Dr. Gregory Luck chose to close the medical clinic in Falmouth, ME, offering a full range of women's health services that has been opened for more than 10 years, rather than risk violence against his patients and staff. Dr. Luck, in closing his practice, said he could not guarantee the safety of his patients. Women, he said ''have been subjected to harassment irrespective of whether they planned to visit my office or any other office and irrespective of what medical service they required,'' he said in announcing the decision.

As we have seen in U.S. News & World Report this week, it says ''physicians under fire,'' having to wear bullet-proof vests, and carrying guns and weapons to protect themselves, to provide for the safety of their employees. It is regrettable in this country we have reached this point in time.

Mr. President, safe, affordable and accessible reproductive health services are crucial to the well-being of women. We must send a message to would-be terrorists that violence and threats of violence and vandalism at these centers will not be tolerated and will be punished under the fullest extent of the law.

Congress needs to act on behalf of the families and friends of those who have tragically died because of their belief in a woman's right to decent medical services. Congress needs to act on behalf of low-income women who depend on such clinics for their personal health needs, the rural woman who already faces burdens and barriers to access, but most importantly, for all women and their families who depend on safe access to the health care that they need and that they deserve.

So I urge my colleagues to support this very important amendment. Again, I want to thank the Senator from California and the Senator from Idaho for yielding me this time.

I yield the floor, Mr. President.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, will you inform me as to how much time I have remaining on my the side?

The PRESIDING OFFICER. The Senator has 17 remaining minutes.

Mrs. BOXER. If the Senator from Illinois is interested, I can yield her 5 minutes at this time. I yield the Senator from Illinois up to 5 minutes at this time.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I want to commend and congratulate Senator BOXER for this initiative, and I hope this body, in a resounding unanimous vote, makes it clear that we condemn in the strongest terms the violence that has occurred, the extremism that has occurred, and the taking of innocent life as a form of protest by any group in this country.

The Congress, I believe, must send a clear, unequivocal signal that this country will not tolerate the use of terror, violence, and murder to express disagreement with the current laws relating to abortion.

Whether one supports abortion or not—and I have made it clear and, in fact, my colleagues and I sometimes have a minor disagreement on this point, that I do not personally support abortion. I do, however, in the strongest terms support the right of a woman to choose to have an abortion. I do not believe that it is the Government's role to intervene itself and interpose itself in so personal and private a moral decision as to whether or not to carry a child to term. I believe that that is an issue that women, of whatever stripe, have to maintain as a matter of fundamental constitutional liberty, and the Supreme Court of the United States, in Roe versus Wade in 1973, agreed with that point of view.

Within the parameters, it recognized a woman's right under the Constitution to control her body, a woman's right to choose to have an abortion. For those of us who are not pro-abortion but rather are pro-choice, it becomes a distinction that is a very important one. It means that Government must, on the one hand, keep its hands off women's bodies; Government must, on the one hand, continue to preserve the liberties and freedoms that women have to decide whether or not to be parents. But at the same time, Government has an obligation and a responsibility to protect people in the exercise of their legitimate rights under the Constitution of this country.

That is what is at issue here: That we have legitimate rights that have been established under the law in this country, and the question is whether or not in these United States the rule of law will predominate or whether or not we will allow ourselves to be dictated to and controlled by extremists and, indeed, extremists who become murderers.

The murders that occurred most recently are horrendous, horrendous

acts. I believe every person of conscience should, in the strongest terms, condemn that violence and condemn murder, certainly as a way of expression. That is not an expression of one's free speech. That is not anything but plain—it is what it is, which is murder. We must always be clear that if we are concerned about life, if we celebrate and want to protect life, then we have to stand four square with those who are exercising their right to live and exercising their rights under this Constitution.

And so since this country has the rule of law and not the rule of individuals who will enforce their point of view from the barrel of a gun, since that is the rule of law in this country, I believe that in this Senate it is appropriate to stand up for that right and for this Senate to express in the clearest terms that we condemn extremism, we certainly condemn murder, and we condemn any effort to interfere with someone's exercise of rights they enjoy under the Constitution of this country.

Local police must make the enforcement of the Freedom of Access to Clinic Entrances Act, which we passed last year in a bipartisan vote, an absolute priority of theirs. Our Justice Department, I believe, has every obligation to look into the network of individuals who are extremists in this area and who could deprive Americans, and particularly women, of their rights not only to choose abortion, but to choose appropriate health care, to choose to get counseling, to choose to go to places where they can receive physical care for their condition.

These clinics provide a lot of different services, as has been pointed out by previous speakers. It is not simply a place where one might go for abortion services. Indeed, if anything, one of the real concerns is that these clinics may be less capable of providing counseling against the transmission of AIDS, against the transmission of disease; that they will not be able to play the public health role that they are uniquely situated to play because of the intimidation, because of the violence, and because of the extremism.

When that extremism reaches the fever-pitch point that it has now, I think it is altogether appropriate for those of us in this body to stand up for the rule of law, to stand up for the right of women to choose and to make their own decisions about their private health care, and to make it very clear that we condemn in the strongest terms the violence that has occurred.

That is the purpose of the sense-of-the-Senate resolution that has been filed by Senator BOXER and of which I am a cosponsor, and that is certainly the initiative behind this sense-of-the-Senate resolution. I call on all of my colleagues, whether you are pro-choice or pro-life, to support the BOXER amendment. Thank you.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. KENNEDY. Mr. President, I strongly support this amendment. The Senate must go on record unequivocally to condemn the use of violence against abortion providers, and to call on law enforcement authorities to do everything in their power to prevent such violence and protect citizens from it.

The most recent deadly assaults occurred at two clinics in Brookline, MA, on December 30. Two women who worked as receptionists at the Brookline clinics had their lives brutally cut short. Five other people were seriously wounded. My heart goes out to these victims and their families.

This kind of vicious, hateful assault against women and health care providers cannot be tolerated in any community in America. No effort can be spared to make sure that these despicable crimes are not repeated anywhere else.

Women must be able to seek reproductive health care without fear of violent assault. Doctors should be able to practice their profession without wearing bullet-proof vests. Clinic staff should be able to go to work each day in safety.

Abortion is a constitutionally protected right, and it must be safe and accessible. Last year, Congress passed the Freedom of Access to Clinic Entrances Act with broad, bipartisan support, and President Clinton signed it into law.

That law gives the Attorney General the tools she needs to prevent violence and obstruction and to punish such acts whenever and wherever they occur with the full force of Federal law.

The Justice Department has already brought several enforcement actions under this law, and it is actively investigating other possible violations. In addition, the Attorney General has directed U.S. attorneys around the country to coordinate a joint effort by Federal, State, and local law enforcement authorities to ensure that clinics and providers in every community are adequately protected.

Some have suggested that the new Federal law is somehow responsible for fomenting violence at abortion clinics, because it allegedly closes off peaceful picketing as an outlet for those with strongly held views against abortion. Any such suggestion is nonsense.

The clinic access law does not prohibit or punish peaceful picketing or any other expression protected by the first amendment. On the contrary, it specifically permits it. What the act prohibits is violent, threatening, obstructive, or destructive conduct—none of which has ever been protected by the Constitution. For that reason, all of the Federal courts that have reviewed the law since President Clinton signed it last year have upheld it. Tough laws against clinic blockades and clinic violence are not the problem. They are the solution.

I commend President Clinton and Attorney General Reno for their vigorous enforcement of the new Federal law, and for their commitment to work with State and local law enforcement authorities to protect clinics throughout the country. We must do everything in our power to guarantee public safety and prevent the use of violence against patients and providers.

It is a privilege to join Senator BOXER in urging adoption of this amendment. I hope that every Member of the Senate will vote in favor of this important measure.

Mr. KERRY. Mr. President, I am honored to join my colleague from California in proposing this important piece of legislation expressing the outrage of this body over abortion clinic violence.

No matter what our views on abortion might be, I am sure that every decent American mourns the senseless murders that have been committed at abortion clinics.

On the first day of this session, I rose to discuss the broad implications of abortion clinic violence. I would like to reiterate some of the points that I made at that time.

I am deeply saddened that my State has joined others that have seen the horror and felt the pain of this senseless violence.

The Friday morning before New Years Eve, at 10 a.m., Shannon Lowney, a 25 year old activist working as a receptionist at a clinic in Brookline, MA, looked up and smiled at a man who had just walked into her office. It was John Salvi.

He pulled a collapsible Ruger rifle from his bag—aimed it at Shannon—and fired at point blank range. He killed Shannon and wounded three others.

And now, in mourning her death, we ask ourselves: Who was Shannon Lowney and what did her life show us?

Her friends called her ''Shanny'' and she was a caring, committed young woman who represents the best of her generation. She cared about people. She tutored Spanish-speaking children in Cambridge, helped poor villagers in Ecuador, worked with abused children in Maine, and last week she finished her application to Boston University for a masters in social work.

She was one of those rare people who confronted injustice and acted on her deep and abiding belief that we are all in this together—we are community and each of us must accept our personal responsibility within that community.

The irony and the tragedy is that—to John Salvi—Shannon's life meant nothing—the good and decent life of someone who truly cared about others was taken in the name of ''life''.

Mr. President, no matter what our views on abortion might be, I am sure that every decent American mourns the senseless murder of Shannon Lowney and is touched by the loss of someone so young and so committed to working with others.

Contrast Shannon's life and her motives with the life and motives of a

man like John Salvi—A man who killed one person and wounded five others and then left Planned Parenthood and walked a few blocks to the Preterm Health Services Clinic. He asked Lee Ann Nicols, a 38-year-old receptionist engaged to be married this year, whether this was the preterm clinic.

She said yes and he shot her from less than one yard away—killing her on the spot.

He then said, ''in the name of the mother of God'', aimed at Richard Seron, a lawyer working as a security guard, and shot him once in each arm. He shot one other person, 29-year-old June Sauer once in the pelvis and once in the back, and then he left.

Five people injured—two people killed.

And now we must ask: Who is John Salvi and what does his life show us?

On Christmas Eve Salvi delivered a sermon about the Catholic Church and its failure to see the true meaning of Christ. But what was his motivation for cold-blooded murder?

Paul Hill, the Minister currently on Florida's Death Row, gives us some insight into John Salvi's motivations. Hill gave us a chilling reason for killing a doctor and his assistant in Pensacola. He said that ''the bible teaches us to do unto others as you would have them do unto you.

''Therefore, killing a man who is about to kill an unborn child constitutes killing in self-defense.''

To Paul Hill the murder was a justifiable homicide.

Mr. President, this syllogism lies at the heart of one of the most corrosive dangers the world faces today.

There are religious teachings that offer justifiable reasons for killing, but mainstream religions have always promoted tolerance over intolerance, and the only people who use religion to justify cold-blooded murder are religious fanatics.

But what happened in Brookline—what happened to Shannon Lowney and Lee Ann Nicols—and the tragedy of their deaths—tells us that we can no longer dismiss these fringe elements of our society. We can no longer let the good people fall victim to intolerance and fanaticism.

Yes, John Salvi read from the same Bible that Shannon and Lee Ann did. The teachings and the words were the same, but their lives could not have been more different. It is our task to remember that commitment and dedication can be manifest in kindness and concern or they can take the hideous form of fanaticism and hatred that motivated John Salvi to play God.

Mr. President. It is incumbent on all of us as a society to understand the danger that can be wrought by those who would interpret religious teachings as a crusade against others and a justification for cold-blooded murder.

It is our task to understand that we live in dangerous times, and that the easy availability of weapons in this society to people like John Salvi and Paul Hill has increased that danger, and increased the threat to those who chose to show their commitment and their faith by helping others build a better life for themselves and for their families.

I believe it is time for both sides in the abortion issue to find a way to express their views without increasing the level of the rhetoric or the level of violence.

It is our task to sit down and talk to each other, and I commend my friend and constituent, Cardinal Bernard Law, of the Archdiocese of Boston, for his efforts to bring both sides together. He has shown himself to be an individual of courage in this regard. Even though he is strongly pro-life, he has called for an end to anti-abortion protests in Boston.

And he is trying to bring everyone together in an unprecedented series of negotiations. Cardinal Law is a leader whose tolerance, and deep faith serves as an example to all of us.

What we achieve together can send a loud and clear message—to those who would use their beliefs as justification for murder—that, though we may not agree, we are still one people bound together not only by our faith and our commitments to our beliefs, but by the expression of our common interests through tolerance for our differences and a mutual respect and understanding for each other.

But, make no mistake. The wrong response to these shootings would be to turn clinics into armed fortresses on the fringes of our medical delivery system, further from those who choose to have the procedure.

Yes, we must protect workers, medical personnel, and patients, but we cannot allow an accepted medical procedure to be limited by the blind intolerance of a fanatical fringe.

So, Mr. President, if this constitutionally protected right is to be preserved, and if we are to truly pay tribute to women like Shannon Lowney, then we need to protect the safety of those who seek the services of these clinics.

When those shots rang out in Brookline, John Salvi took something very precious from us. He took our freedom to believe and to express our beliefs as we choose. He took our freedom to act on our beliefs without fear of violence. We can never let that happen.

Mr. President, perhaps the most eloquent tribute to Shannon Lowney came from the president of the Planned Parenthood League of Massachusetts. Nicki Nichols Gamble said, ''Shannon gave her life so that others would be able to have better lives. She was an essential link in the chain of women helping women. We will miss her desperately, and we will remember her, and we will see to it that her death will not be in vain.''

Today and for many days to come we will mourn the deaths of Shannon Lowney and Lee Ann Nicols. The people of my state are shocked and outraged at this senseless act of violence that took them from us, and I know that I speak for every member of the Senate in extending our deepest condolences to their families and friends and to all the victims of this tragedy.

The lesson, Mr. President, is ''tolerance'' and it is a lesson we would do well to learn; and—if we do not learn it—we will have dishonored the memory of two young women from Massachusetts who lost their lives to intolerance in the name of God.

Thank you, Mr. President. I yield the floor.

Mrs. BOXER. Mr. President, I ask my colleague if there are any other speakers that he knows of at this time on his side, and if there are not, I will take about 5 minutes at this time.

Mr. KEMPTHORNE. Mr. President, yes, I do believe that we have at least one more Senator who will be coming to speak on the issue.

Mrs. BOXER. Mr. President, I will yield myself 5 minutes, and then I will yield back to my colleague so we can continue the debate.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to thank the Senator from Illinois for being here; for, yes, being one of the early cosponsors of this amendment. I, frankly, do not know of any Senator who is pro-abortion. I do know many Senators who are pro-choice on both sides of this aisle. That is why it is so important for reasonable people to come together around this issue, by the way, people who are pro-choice and people who are not, as the Senator from Illinois pointed out. There are times when we can all come together. This is one of those times.

When I was asked about what life in the new Senate would mean for me, I responded to one reporter in this way. I said:

''I think there will be many issues where reasonable Senators will come together from both sides of the aisle, and it will not be a partisan issue in every case.''

And that reporter said: ''Give me an example.''

I said: ''Clinic violence, the gag rule, a woman's right to choose.''

This is something that cuts across our party. This is about the dignity of women and, therefore, the dignity of all of us, because all of us have mothers. Many of us have sisters, wives, and daughters, and their dignity is our dignity.

I am so pleased that after much discussion and debate, we were able to reach agreement on a very sensible resolution, I think one that each and every Member of this Senate can be proud to vote for.

I want to use a little time to go back to what is really happening in some of the streets of our Nation. And I want to refer to a document called ''No Place to Hide,'' which is a campaign being launched by a group that calls

themselves ''pro-life.'' And I would leave it up to others to decide if that is an appropriate term.

They put out this leaflet, and I am going to read to you from part of it. It says in part, this is the ''No Place to Hide'' campaign.

And it is supposed to go after workers in reproductive health care clinics. It says:

Try to reason with the doctors, speaking from your heart about the unborn child and the pain and anguish their mothers go through. If they agree—

The doctors.

If they agree to stop killing children, ask them to put it in writing.

Mr. President, when you use terms like this: Ask the doctors to stop killing children, what is the message? Then they say:

Creative fliers similar to the enclosed wanted poster to hand out to people entering the building where the doctors have their practices.

Here is one of these wanted posters, showing the faces of these doctors, and on the top it says, ''Wanted For Killing Unborn Babies.''

Now, it seems to me it is time for all Americans to come together and listen to the words we are using.

I ask unanimous consent to place in the RECORD an article from the Oakland Tribune dated January 6 at the end of my statement.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

(See exhibit 1.)

Mrs. BOXER. I thank the Chair.

This is what they say in this article:

When you tell someone unstable, like Paul Hill—

Who killed two people in a clinic in Florida—

When you tell someone unstable, like Paul Hill, that doctors at Planned Parenthood are murderers who destroy innocent babies, you just can't wash your hands of it when that unstable person kills someone. When your supporters distribute posters saying, ''wanted dead or alive,'' with doctors' names on them, you can't say it has nothing to do with you when someone ends up dead. When you liken abortion to the Holocaust, you are inviting your followers to take the law into their own hands.

And then they quote one of the gentlemen involved in these organizations, and he said,

Anyone in the war zone has got to expect to be part of the war that's going on.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. I ask for 2 additional minutes.

Anyone in the war zone has got to expect to be part of the war that's going on.

Said this gentleman about the dead woman in Brookline.

So I say to you, Mr. President and my colleagues, I thank so much the Senator from Oklahoma working on the words of this resolution so we protect everybody's rights—yes, the rights of the peaceful protesters to express themselves fully and completely as we point out in the FACE bill they have a right to do, and, yes, the rights of people seeking reproductive health care to have their lives protected. I say that we cannot ignore the words that are being used, and that, yes, in this amendment we are calling on the Attorney General to fully enforce this law, to do everything she has to do.

In essence, I hope that by our speaking out tonight in a bipartisan fashion, the word will go out to the people in these organizations to think very carefully, Mr. President, of the words they use and the things that they print up showing doctors as killers.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired.

Mrs. BOXER. And to change their tactics.

I would at this time save the remainder of my time, which, if I am correct, is approximately 5 minutes.

The PRESIDING OFFICER. Five minutes.

Mrs. BOXER. I would reserve that 5 minutes.

EXHIBIT 1

[From the Oakland Tribune]

ANTI-ABORTION LEADERS MUST REIN IN TROOPS

The president can send a regiment of soldiers to guard abortion clinics, and the women and men who work there can arm themselves to the eyeballs. But violence at clinics is not going to stop until leaders of the anti-abortion movement exert strong moral leadership over their flock.

It sounds odd, doesn't it—telling anti-abortionists to show morality. After all, isn't that what the anti-abortion movement is all about? Its adherents hold the bedrock belief that a fetus is an independent human being. When they stop an abortion they believe they are saving life.

But you can't be ''pro-life'' and condone murder. Two murders took place in Brookline, Mass, last week—the victims were receptionists at places where abortions take place. An anti-abortion activist from New Hampshire, John Salvi, has been accused of the crimes.

Another anti-abortion crusader, Paul Hill, was convicted last year of similar murders in Florida. There has been violence at other clinics across the country.

Too many leaders of the anti-abortion movement have washed their hands of these murders emanating from their midst. They say, ''Tsk tsk. Isn't that a shame? But those people are extremists. They have nothing to do with the mainstream anti-abortion movement.''

FRANKENSTEIN

We have news for anti-abortion leaders: Paul Hill, John Salvi and the others like them in your movement have everything to do with you. You create and nourish them with your language and tactics.

When you tell someone unstable, like Paul Hill, that doctors at Planned Parenthood are murderers who destroy innocent babies, you can't just wash your hands of it when that unstable person kills someone. When you supporters distribute posters saying, ''wanted, dead or alive,'' with doctors' names on them, you can't say it has nothing to do with you when someone ends up dead. When you liken abortion to the Holocaust, you are inviting your followers to take the law into their own hands.

When the movement accepts people like Salvi, Hill or the Rev. David Trosch in its midst then it has to accept responsibility for their actions and their speech. Trosch is the Roman Catholic priest suspended for declaring it ''justifiable homicide'' to kill a doctor who commits abortions.

A man like Trosch incites men like Hill to kill. ''Anyone in the war zone has to expect to be part of the war that's going on,'' Trosch said of the dead women in Brookline.

Not everyone in the anti-abortion movement is like Trosch, of course. The bulk of people are sincere and well-meaning. The Rev. Flip Benham of Operation Rescue National condemned the attacks in Brookline. ''An eye for an eye, it doesn't work that way,'' Benham said. But to an apparently increasing number of anti-abortionists it does work that way. These movement members see things as Trosch sees them. They see those dead receptionists as grounds troops in a larger war who have no meaning of their own.

Cardinal Bernard Law of the Boston Archdiocese wants the killing to stop. After the Brookline shootings, he called for an end to the violence and the demonstrations. He told those who protest to search their souls.

TRUE LEADERSHIP

That is moral leadership. Anti-abortion leaders should search their souls indeed. Are they inciting people to Kill? Is their language too provocative? Are their actions going to lead to violence? Is there a better way to get where they want to go without confrontation? Can they identify people on the fringe before they harm others? Can they isolate those people and get them counseling?

This is a time for leaders and everyone else in the anti-abortion movement to take careful stock of what they stand for. They got into this crusade to save lives. Their cohorts are now taking lives. This is not the way it was supposed to be.

Paul Hill said that one day soon his behavior—murder—would be viewed as normal in the abortion wars, rather than an aberration.

The only ones who can keep that ghastly reverie from becoming reality are the men and women who lead the movement that created Paul Hill. They need to take their considerable moral energy and turn it inward, for now. It is time to begin, today.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask to be recognized for such time as necessary, not to exceed 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NICKLES. Mr. President, on this resolution, I have been working with the Senator from California, and I appreciate her cooperation as well as the cooperation of the Senator from Washington, Senator MURRAY, in trying to come up with a resolution that we can support. I am talking about people of different views on different sides of the abortion question. I think we have come to agreement, and I appreciate their cooperation.

When we originally looked at the resolution as introduced, it left a lot to be desired, and my original thought was that we could not support it. Since then, I think we have made some improvements, and I might just mention those. Originally the resolution stated

that ''persons exercising their constitutional rights and acting completely within the law are entitled to full protection from the Federal Government.''

Now, that might sound good. But we have left that out because it can be misleading. Some people might misinterpret that, so now that is not included in the resolution. We offered to say that they would be entitled to ''equal protection,'' we did not reach an agreement on that. So now that particular segment is not included.

Also, the original resolution stated that ''the Freedom of Access to Clinic Entrances Act of 1994 imposes a mandate on the Federal Government to protect individuals seeking to obtain or provide reproductive health services.''

That is now deleted. It was deleted, in my opinion, for a good reason—because it is not correct. That is not what the original act stated.

In addition, we made a couple of other changes, and I think these as well are positive changes. The sense-of-the-Senate resolution, as mentioned by the Senator from California, now deletes language that says that ''the Attorney General should fully enforce the law and take any further necessary measures to'' protect persons, and so forth. And we have eliminated that part—''and take any further necessary measures''—in addition to enforcing the law. I think that is an improvement.

I appreciate also the Senator from California agreeing to the following addition that was recommended by the Senator from Indiana, Senator COATS, which added the following. It says:

> Nothing in this resolution shall be construed to prohibit any expressive conduct (including peaceful picketing, or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution.

In other words, people still have the right of peaceful demonstration, whether it be in front of an abortion clinic or other areas.

Mr. President, let me just state that I will support this resolution. My original concern was that we were only condemning one type of violence, the type of violence as it concerns abortion clinics. I happen to be against all violence. I am not interested in the reason—in people murdering someone down at the convenience store or in front of a night club in the streets of Washington, DC or New York City or Oklahoma or in California or in front of abortion clinics. I condemn those people who committed the atrocities including killing or murdering abortionists or someone murdering a 15-year old on the street because they want to wear his jacket.

I thought the resolution was inappropriate because it only condemned violence against abortion clinics. I want to condemn that violence. I happen to be on the pro-life side of this debate. But I think people who are breaking the law by murdering other individuals are going too far and they are actually hurting the cause that they supposedly are trying to help, so I think we should condemn that violence. But I also think we should condemn violence such as occurred in Alabama in 1993. A pro-life minister and talk show host Jerry Simon was shot and killed by a self-described Satan worshiper, Eileen Janezic, stating she did it ''to please Satan.'' That case received almost no publicity. We have seen a lot of publicity concerning the murder where Paul Hill murdered an abortionist in Florida, and maybe rightfully so; it needed some attention. He was certainly wrong.

I might mention, Mr. President, he was convicted. He was convicted under State law for murder and has now been sentenced to death. Some people wanted to federalize all crimes, but I might mention murder is against the law in every single State in the Nation, as it should be, and States have the primary responsibility to enforce those laws, as it should be. His trial has been completed, and he was found guilty. And his sentence is the death penalty under State law. So again I wish to condemn violence, but I also want to make sure that we do not federalize so many cases.

It was also originally stated that there was so many thousand FBI agents and U.S. marshals and that they should do all they can to protect abortion clinics. I might mention—and I think the resolution states there are something like 900 clinics. They are called—well, they are called clinics in the United States providing reproductive health services. They are abortion clinics. If you took the number of U.S. marshals—I think there is stated to be about 2,000 marshals and I guess their deputies—then each clinic could have a little over 2 marshals per clinic. The marshals have something else to do. So I objected to that section, as well.

So I appreciate the Senator from California deleting this. I appreciate the willingness of the Senator from California to modify the resolution. I think it is acceptable. I think it is important for the Congress to speak out and condemn violence but I think it is also important for us to speak out and condemn all violence. When we see teenagers killing teenagers; when we see drug epidemics run rampant throughout this country; when we see the number of women who are being abused, the number of children who are being abused; when we see so many significant crime problems throughout this country, I think we need to do something, as well. Not just a sense-of-the-Senate resolution.

So I am hopeful that this Congress will move and move expeditiously on a significant crime enforcement package, one that will strengthen the penalties that some of us tried to enact a year ago, one that will have habeas corpus reform so we can have an end to the endless appeals.

So I hope this Congress will move and make some real, significant change in order to limit crime this year, this Congress.

I thank my colleague and I yield the floor.

Mrs. BOXER. Mr. President, I yield 3 minutes to the Senator from New Jersey, Senator LAUTENBERG.

Mr. LAUTENBERG. I thank the Senator from California.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise today in support of the sense-of-the-Senate amendment introduced by Senator BOXER.

Since 1984, there have been more than 1,500 acts of violence near abortion critics.

In the last 22 months, five innocent people have been shot to death at abortion clinics. Five men and women heartlessly slain by murderers who call themselves pro-life.

In the past year, we have already seen two tragedies at abortion clinics. Less than 6 months ago, a doctor and his escort were shot to death on their way to work in Pensacola, FL.

Most recently, a 22-year-old man allegedly went on a violent spree, attacking abortion clinics in Massachusetts and Virginia, and killing two clinic workers in the process.

Mr. President, how many more innocent people must die before we as a society put a stop to this terror?

How many doctors will be gunned down for performing a legal medical procedure?

How many receptionists will lose their lives simply because they work in the line of extremist gunfire?

Last year, President Clinton signed the Freedom of Access to Clinic Entrances Act, known as FACE. This law made it a Federal crime to block, obstruct or intimidate a woman seeking reproductive health services, or a doctor trying to perform them.

But it is now clear that the clinic access law alone will not be enough to protect our Nation's doctors and women.

Attorney General Reno announced in August that she would post U.S. marshals outside of threatened clinics. That is also a step in the right direction, and I urge the Justice Department to review its efforts in this area.

I applaud the President's announcement earlier this month directing all U.S. attorneys around the country to form an immediate task force of Federal, State, and local officials to coordinate plans for security at all clinics in their jurisdictions.

And I applaud the President's efforts to improve communication between U.S. marshals and reproductive clinics to make sure they are prepared to inform the authorities of any potential threats.

But I ask the administration to continue pursuing a hard line against the purveyors of violence and to take further protective measures until each

and every reproductive clinic in the United States is safe for doctors, for employees, and for patients.

The women of this country deserve to go to the doctor without fearing that they may never come home.

They deserve to receive reproductive services without harassment, intimidation or even worse, bodily harm.

And they have a right to undergo legal medical procedures without putting themselves, their families or their doctors in such unfair jeopardy.

Let us send a strong message to all those who would use guns to express their views, a message that we are going to stand up for the women, doctors, escorts, and health care workers across the country until all Americans are safe, and all murderers are behind bars.

Mr. President, I will just take a couple of minutes to summarize what, I sense, is an attitudinal problem. We can talk all we want about standing up against violence. But very often, the people who talk most about violence and getting rid of it are those who support the proliferation of guns across our society. It is pretty hard to do away with violence when there is almost a gun everyplace that you look, and a failure to register those things.

When we talk about standing up against violence, there is an intimation that those who have the right to choose under our Constitution, confirmed by the Supreme Court, are themselves committing an act of violence, and that is where the process starts. The process, not just of killing and assault, but intimidation, is one designed to threaten people who decide that they want to make a different decision than those on the other side.

In New Jersey, we have a doctor who offers abortion as part of his obstetrical practice, offers abortion if people want it. He has been shot at. He has been threatened. His family is constantly under threat. He is so frightened by doing what he feels is right professionally, and yet he is unable to offer the kinds of services for which he has been licensed by the State and by the profession.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. LAUTENBERG. Can I have 1 more minute, or if my colleague is out of time, I will conclude.

Mrs. BOXER. I will yield 30 seconds.

Mr. LAUTENBERG. Just to say this. If we are going to talk against violence, it has to start when people violate the law, the law very clearly stated. I implore the President and the Attorney General to stand up and protect those institutions that offer people a choice in how they want to conduct their lives. It is very simple.

Mr. President, I yield the floor and thank the Senator from California for her courage and for letting me participate.

I yield the floor.

Mrs. BOXER. Mr. President, I have a minute and a half remaining. I wonder if the Senator from Idaho would like to yield some time. I will retain that minute and a half just to close off debate at the end, if I might.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. It is 14 minutes for the Senator from Oklahoma, and a minute and a half for the Senator from California.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for a parliamentary question.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, to whose time is the time being charged for the quorum?

The PRESIDING OFFICER. The Senator from Oklahoma.

Ms. MIKULSKI. I see. I thank the Chair. I yield the floor and, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Ms. MIKULSKI. On the time of the Senator from Oklahoma.

The PRESIDING OFFICER. Is there objection? Is there objection? Without objection, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

AMENDMENT NO. 141

Mr. BRADLEY. Mr. President, I ask unanimous consent that Senator DORGAN, Senator DOLE, and Senator NICKLES be added as cosponsors to the amendment, the BRADLEY amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, as I said earlier, this is a very simple amendment.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. BRADLEY. Mr. President, I think the unanimous consent agreement allotted 1 hour for debate of the underlying amendment.

The PRESIDING OFFICER. It was controlled by Senator NICKLES of Oklahoma and Senator BOXER of California.

Mr. BRADLEY. Mr. President, I ask unanimous consent I be able to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, the amendment we are going to be voting on at 7:30 is an amendment that simply says while we are debating Federal unfunded mandates on States, it is the sense of the Senate that there should not be unfunded mandates from the States to the local governments of this country requiring increases in property taxes.

The fact is the property taxes are much too high in most States, and there is a significant reason for that involving unfunded mandates from the State government to the local government.

This simply allows the Senate to go on record saying that we do not want high property taxes from unfunded mandates. There are many Governors in the country who do not want any mandates from the Federal Government but they are not reluctant to apply unfunded mandates to the local governments. They are very clear on that.

I am very pleased to have Senator CHAFEE as a key cosponsor.

I yield the floor. If Senator CHAFEE wants to speak, I hope he will come over for the remaining 30 seconds of my 2 minutes.

Mr. President, I ask unanimous consent that Senator ROBB be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I must rise in opposition to the amendment offered by the Senator from New Jersey. It is true that I strongly support the idea that mandate costs should not be forced upon subordinate units of government, and that the constitution of my home State of Michigan prohibits the imposition of unfunded mandates upon local units of government. My inability to support the amendment accordingly does not arise from any disagreement with the principle it expresses. Rather, my opposition is grounded in larger principles of federalism. A core principle of that doctrine is that certain matters simply are beyond the ken of the Federal Government. To my mind, the proper allocation of mandate costs between State and local governments is one such matter. Thus, while I agree with the general principle expressed in the Senator's amendment, I think we overstep our proper bounds when we tell State and local governments how to structure their relationship.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, let me comment very briefly on the Sense-of-the-Senate resolution offered by Senator BRADLEY and me.

The resolution is, of course, not binding to the States. The last thing we want to do is attach a mandate to an unfunded mandates reform bill. Instead, we say plainly here that the States should given full consideration to mandates they might pass onto their cities and towns. That is all.

I mentioned last week on the floor how ironic it is that Governors have asked us to provide relief in this area—while they themselves frequently impose unfunded mandates on their counties, cities, and towns. As we know,

cities and towns have no one to pass costs down to.

S. 1 introduces a clear mechanism for accountability at the Federal level. It would be inappropriate and unconstitutional for the Congress to install these same restrictions at the State level—yet—the theme underlying S. 1 of increased accountability for mandates seems applicable.

Although my plan is to support S. 1, I have concerns about the lack of information in certain areas. for instance, do we know how many of the mandates imposed upon cities and towns actually originate from the Federal Government? To my knowledge, there is no data base or tracking system to make this important distinction. However, we have clear evidence that State-issued unfunded mandates exist.

Mr. President, many States have exercised their authority to adopt laws which are more stringent than what the Federal Government requires.

For example, my own State of Rhode Island requires every city and town to have an adult monitor on every school bus that carries children in the fourth grade and below. Did the Federal Government issue this mandate? No. Does the State provide the funds for this? No. The cities and towns must find the money in their own budgets.

I will conclude by noting that the Governmental Affairs Committee report accompanying S. 1 states on page 3 that, ''* * * local officials decry unfunded State mandates as much as they do unfunded Federal ones.'' Since we cannot take direct action to remedy this, Mr. President, I would hope that the Senate could at least send the message that we must be held accountable at all levels.

I am told that language similar to this was to be included in a managers amendment last year on S. 993. It is my view that the need for this resolution still exists and so I urge its adoption.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the remaining committee amendments be laid aside in order to consider a Levin-Kempthorne amendment regarding feasibility and that no other amendment be in order prior to the disposition of the Levin-Kempthorne amendment and no call for the regular order serve in place of the Levin Kempthorne amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 143

(Purpose: To provide for the infeasibility of the Congressional Budget Office making a cost estimate for Federal intergovernmental mandates, and for other purposes)

Mr. LEVIN. Mr. President, I send an amendment to the desk in behalf of myself, Mr. KEMPTHORNE, and Mr. GLENN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. KEMPTHORNE, and Mr. GLENN, proposes an amendment numbered 143.

The amendment is as follows:

On page 19, insert between lines 10 and 11 the following new clause:

''(iii) If the Director determines that it is not required under clauses (i) and (ii), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. If such determination is made by the Director, a point of order shall lie only under (c)(1)(A) and as if the requirement of (c)(1)(A) had not been met.

Mrs. BOXER. Mr. President, may I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mrs. BOXER. I wonder, since I have 1½ minutes remaining before the vote at 7:30, I would like to protect that right to be able to give that 1½ minutes closing of my argument if I might.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, this amendment responds to a lengthy discussion that we had yesterday about whether the bill should allow the Congressional Budget Office to state when it honestly cannot estimate the direct cost of an intergovernmental mandate. The bill contains a provision that allows the CBO to be honest with respect to its ability or inability to estimate private sector mandates. However, there is no comparable language with respect to CBO's estimates for State and local governments. That was not inadvertent, as the committee reports indicate. But it was wrong. We made an effort in committee to correct it. We had no success.

The amendment we have before us adds such language, and it clarifies in those situations where the CBO cannot make an estimate that it may say so, and that that will be true for intergovernmental estimates, not just for private sector estimates.

This amendment is important for a number of reasons. I commend the managers as well as my cosponsors for agreeing to it and thank them for their efforts in working this out.

This amendment would first provide for truth in legislating by allowing the CBO to tell us if they cannot estimate the cost of an intergovernmental mandate. This amendment retains a point of order in the situation where the estimate cannot be made. The inability to estimate direct costs would continue to be a failure to provide a statement on the estimated cost for purposes of subsection (c)(1)(A).

That was the situation that existed in last year's bill. The point of order which would remain where an estimate is impossible to be made is a point of order which was allowed in last year's bill. The point of order, however, lies only with respect to the absence of a cost estimate. The point of order with respect to an authorization of appropriations would not lie because, practically speaking, it cannot lie. Without a CBO estimate, the mechanism in the point of order that addresses the authorization of appropriation and the subsequent appropriation process does not make sense.

This amendment, therefore, makes it clear that that portion of the point of order in the bill in section (c)(1)(B) does not apply where CBO cannot make an estimate.

Section (c)(1)(B) includes that new point of order which was added in this year's bill which was not in last year's bill. That point of order would not lie in the event of an inability of the CBO to make the estimate.

I want to again thank Senator GLENN, Senator KEMPTHORNE, Senator EXON, and Senator DOMENICI for their help in making it possible for us to have this amendment offered and to hopefully succeed either tonight or tomorrow morning to have it adopted.

I thank the Chair. Again, I thank the managers of the bill.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, thank you very much.

Mr. President, yesterday we did a colloquy on the CBO's inability to make a reliable estimate of mandate costs. Senator LEVIN was concerned primarily that the CBO be given the freedom to not make an estimate. I was concerned that the Congress not provide a loophole which would frustrate the very intent of this bill, which is accountability and informed decisionmaking.

The purpose of the Levin-Kempthorne-Glenn amendment will be to accommodate both interests. If the CBO director cannot make an estimate, he or she shall so state it. But the failure of the CBO Director to make an estimate will still trigger the point of order.

This will provide the Senate with the opportunity to debate issues concerning the estimate and the funding decisions. It will be the will of the Senate at that point to either waive a point or not.

Mr. President, I believe that this addresses what we were discussing yesterday in a thorough discussion and it accomplishes what both of us needed to have accomplished. So I appreciate the floor manager and Senator LEVIN.

Mr. LEVIN. Mr. President, if I could quickly ask the Senator from Idaho to yield for a question, I hope he would agree that the amendment expressly states that the section (c)(1)(B) point of order would not lie in such an instance, only the (c)(1)(A) point of order.

Mr. KEMPTHORNE. In response to that, Mr. President, there is only one point of order, and it has two parts.

Mr. LEVIN. The first part would lie and the second part would not lie. Is that correct?

Mr. KEMPTHORNE. As a result of the Director making that statement; that is correct.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized for 1½ minutes.

Mr. LEVIN. I ask unanimous consent, Mr. President, that the vote occur at 7:32 so that the Senator retains 1½ minutes and so that the manager on the Democratic side would have an opportunity for a 1-minute statement, or whatever he needs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I will be very brief.

I agree completely with Senator LEVIN. I think he has taken care of a problem that we discussed at great length on the floor yesterday. We went on and on about this. I will not try to repeat all of those same arguments we made yesterday. I think it is ridiculous to require a report where they can say they cannot make a report. Senator LEVIN has very properly moved this amendment to take care of that problem. I support it fully. I urge my colleagues to vote for it.

It is my understanding that Senator LEVIN will want a rollcall vote on this but that it will be put off until morning, and as part of the wrap-up by unanimous consent this evening.

I yield the floor so that our distinguished colleague from California can get her time.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Thank you very much.

Mr. President, based on that, I ask unanimous consent that there be a rollcall vote on this amendment, that it occur tomorrow prior to cloture vote, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, the rollcall vote will be ordered tomorrow.

The Senator from California is recognized for 1½ minutes.

Mrs. BOXER. Thank you very much, Mr. President. After 2 weeks of trying to do this, it comes down to a minute and a half. I want to use that time to thank my colleague from Oklahoma for working so hard to get an agreement. I thank the majority leader. He was very direct with me from day one. I knew exactly where I stood. Sometimes it was not in such a great situation, but it turned out that we were able to air this issue.

I want to say that I agree with the Senator from Oklahoma that all violence must be condemned. I have been on this floor condemning gun violence, violence in the workplace, and domestic violence. I was one of the authors of the Violence Against Women Act and worked with my colleague, JOE BIDEN, to make sure it became the law of the land.

Today I am here to talk about the violence to clinics. On December 30, two young, innocent women that worked as receptionists in women's health care clinics were shot to death. The same killer shot up a clinic in Virginia. The President expressed outrage. The Attorney General has instructed the U.S. attorney and the U.S. marshals to work with clinics, and we say to the law enforcement officials it is the Senate's turn to act.

The resolution we propose is straightforward. The resolution, as it was amended by the Senator from Oklahoma, expresses the sense of the Senate that the Attorney General shall fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining reproductive health services, from violent attack.

We did compromise on this legislation. I urge my colleagues on both sides of the aisle to send a very clear statement from this Senate that we abhor the violence. It will stop; it must stop. We are a country of laws.

I yield the floor.

Mr. DOLE. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the Senator from California and the Senator from Oklahoma for coming together on a very important resolution. There is a vast difference between nonviolence and violence, and that is the purpose of this resolution. In my view, it seems to me something that we should all vote for. When someone violates the law, they violate the law. That is precisely what is being addressed.

The Attorney General should enforce the law. We should not expect any less. I have even gone so far as to say in public comments that I understand peaceful demonstration and I understand nonviolence. I support each. But some of these actions almost come out to terrorism.

I hope we will have a broad bipartisan vote for this special issue.

Mr. President, there will be no more votes after the second vote.

The PRESIDING OFFICER. The question is on agreeing to the Bradley amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—93

Akaka	Feingold	Lugar
Ashcroft	Feinstein	Mack
Baucus	Ford	McConnell
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Hollings	Reid
Campbell	Inhofe	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Santorum
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Shelby
Coverdell	Kennedy	Simon
Craig	Kerrey	Simpson
Daschle	Kerry	Smith
DeWine	Kohl	Snowe
Dodd	Kyl	Specter
Dole	Lautenberg	Stevens
Domenici	Leahy	Thomas
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Wellstone

NAYS—5

Abraham	Hutchison	Warner
Gorton	McCain	

NOT VOTING—2

D'Amato	Helms

So the amendment (No. 141) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 142

The PRESIDING OFFICER. The question is on agreeing to the Boxer amendment No. 142. The yeas and nays have been ordered. The Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—99

Abraham	Byrd	Dorgan
Akaka	Campbell	Exon
Ashcroft	Chafee	Faircloth
Baucus	Coats	Feingold
Bennett	Cochran	Feinstein
Biden	Cohen	Ford
Bingaman	Conrad	Frist
Bond	Coverdell	Glenn
Boxer	Craig	Gorton
Bradley	D'Amato	Graham
Breaux	Daschle	Gramm
Brown	DeWine	Grams
Bryan	Dodd	Grassley
Bumpers	Dole	Gregg
Burns	Domenici	Harkin

Hatch	Levin	Reid
Hatfield	Lieberman	Robb
Heflin	Lott	Rockefeller
Hollings	Lugar	Roth
Hutchison	Mack	Santorum
Inhofe	McCain	Sarbanes
Inouye	McConnell	Shelby
Jeffords	Mikulski	Simon
Johnston	Moseley-Braun	Simpson
Kassebaum	Moynihan	Smith
Kempthorne	Murkowski	Snowe
Kennedy	Murray	Specter
Kerrey	Nickles	Stevens
Kerry	Nunn	Thomas
Kohl	Packwood	Thompson
Kyl	Pell	Thurmond
Lautenberg	Pressler	Warner
Leahy	Pryor	Wellstone

NOT VOTING—1

Helms

So the amendment (No. 142) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUMPERS. Now, Mr. President, what is the present parliamentary situation? What is the pending business?

Mr. GLENN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Without losing his right to the floor.

Mr. BUMPERS. Mr. President, I yield without losing my right to the floor.

Mr. GLENN. Without losing his right to the floor, fine.

What we were doing, we had an amendment that would be voice voted. We are trying to work out the agreement on it, so it will not knock out some of the earlier agreements today. And that is being worked on right now. If we cannot do that tonight expeditiously, we may put that off until tomorrow.

That is the reason I had the quorum call in.

Mr. BUMPERS. I ask the Senator, is that the Gorton amendment you are working on?

Mr. GLENN. I am sorry.

Mr. BUMPERS. What is the pending amendment?

The PRESIDING OFFICER. The Gorton amendment is the pending amendment.

Mr. BUMPERS. Is that the amendment the Senator is alluding to?

Mr. GLENN. No. Mine would be a separate amendment.

Mr. BUMPERS. So, Mr. President, the Gorton amendment is open to amendment, is it not?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 144

(Purpose: To authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 144.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the pending amendment insert the following new title:

TITLE ___—COLLECTION OF STATE AND LOCAL SALES TAXES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Consumer and Main Street Business Protection Act of 1995''.

SEC. ___02. FINDINGS.

The Congress finds that—

(1) merchandise purchased from out-of-State firms is subject to State and local sales taxes in the same manner as merchandise purchased from in-State firms,

(2) State and local governments generally are unable to compel out-of-State firms to collect and remit such taxes, and consequently, many out-of-State firms choose not to collect State and local taxes on merchandise delivered across State lines,

(3) moreover, many out-of-State firms fail to inform their customers that such taxes exist, with some firms even falsely claiming that merchandise purchased out-of-State is tax-free, and consequently, many consumers unknowingly incur tax liabilities, including interest and penalty charges,

(4) Congress has a duty to protect consumers from explicit or implicit misrepresentations of State and local sales tax obligations,

(5) small businesses, which are compelled to collect State and local sales taxes, are subject to unfair competition when out-of-State firms cannot be compelled to collect and remit such taxes on their sales to residents of the State,

(6) State and local governments provide a number of resources to out-of-State firms including government services relating to disposal of tons of catalogs, mail delivery, communications, and bank and court systems,

(7) the inability of State and local governments to require out-of-State firms to collect and remit sales taxes deprives State and local governments of needed revenue and forces such State and local governments to raise taxes on taxpayers, including consumers and small businesses, in such State,

(8) the Supreme Court ruled in Quill Corporation v. North Dakota, 112 S. Ct. 1904 (1992) that the due process clause of the Constitution does not prohibit a State government from imposing personal jurisdiction and tax obligations on out-of-State firms that purposefully solicit sales from residents therein, and that the Congress has the power to authorize State governments to require out-of-State firms to collect State and local sales taxes, and

(9) as a matter of federalism, the Federal Government has a duty to assist State and local governments in collecting sales taxes on sales from out-of-State firms.

SEC. ___03. AUTHORITY FOR COLLECTION OF SALES TAX.

(a) IN GENERAL.—A State is authorized to require a person who is subject to the personal jurisdiction of the State to collect and remit a State sales tax, a local sales tax, or both, with respect to tangible personal property if—

(1) the destination of the tangible personal property is in the State,

(2) during the 1-year period ending on September 30 of the calendar year preceding the calendar year in which the taxable event occurs, the person has gross receipts from sales of such tangible personal property—

(A) in the United States exceeding $3,000,000, or

(B) in the State exceeding $100,000, and

(3) the State, on behalf of its local jurisdictions, collects and administers all local sales taxes imposed pursuant to this title.

(b) STATES MUST COLLECT LOCAL SALES TAXES.—Except as provided in section ___04(d), a State in which both State and local sales taxes are imposed may not require State sales taxes to be collected and remitted under subsection (a) unless the State also requires the local sales taxes to be collected and remitted under subsection (a).

(c) AGGREGATION RULES.—All persons that would be treated as a single employer under section 52 (a) or (b) of the Internal Revenue Code of 1986 shall be treated as one person for purposes of subsection (a).

(d) DESTINATION.—For purposes of subsection (a), the destination of tangible personal property is the State or local jurisdiction which is the final location to which the seller ships or delivers the property, or to which the seller causes the property to be shipped or delivered, regardless of the means of shipment or delivery or the location of the buyer.

SEC.___04. TREATMENT OF LOCAL SALES TAXES.

(a) UNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Sales taxes imposed by local jurisdictions of a State shall be deemed to be uniform for purposes of this title and shall be collected under this title in the same manner as State sales taxes if—

(A) such local sales taxes are imposed at the same rate and on identical transactions in all geographic areas in the State, and

(B) such local sales taxes imposed on sales by out-of-State persons are collected and administered by the State.

(2) APPLICATION TO BORDER JURISDICTION TAX RATES.—A State shall not be treated as failing to meet the requirements of paragraph (1)(A) if, with respect to a local jurisdiction which borders on another State, such State or local jurisdiction—

(A) either reduces or increases the local sales tax in order to achieve a rate of tax equal to that imposed by the bordering State on identical transactions, or

(B) exempts from the tax transactions which are exempt from tax in the bordering State.

(b) NONUNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), nonuniform local sales taxes required to be collected pursuant to this title shall be collected under one of the options provided under paragraph (2).

(2) ELECTION.—For purposes of paragraph (1), any person required under authority of this title to collect nonuniform local sales taxes shall elect to collect either—

(A) all nonuniform local sales taxes applicable to transactions in the State, or

(B) a fee (at the rate determined under paragraph (3)) which shall be in lieu of the nonuniform local sales taxes described in subparagraph (A).

Such election shall require the person to use the method elected for all transactions in the State while the election is in effect.

(3) RATE OF IN-LIEU FEE.—For purposes of paragraph (2)(B), the rate of the in-lieu fee for any calendar year shall be an amount equal to the product of—

(A) the amount determined by dividing total nonuniform local sales tax revenues collected in the State for the most recently completed State fiscal year for which data is available by total State sales tax revenues for the same year, and

(B) the State sales tax rate.

Such amount shall be rounded to the nearest 0.25 percent.

(4) NONUNIFORM LOCAL SALES TAXES.—For purposes of this title, nonuniform local sales taxes are local sales taxes which do not meet the requirements of subsection (a).

(c) DISTRIBUTION OF LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), a State shall distribute to local jurisdictions a portion of the amounts collected pursuant to this title determined on the basis of—

(A) in the case of uniform local sales taxes, the proportion which each local jurisdiction receives of uniform local sales taxes not collected pursuant to this title,

(B) in the case of in-lieu fees described in subsection (b)(2)(B), the proportion which each local jurisdiction's nonuniform local sales tax receipts bears to the total nonuniform local sales tax receipts in the State, and

(C) in the case of any nonuniform local sales tax collected pursuant to this title, the geographical location of the transaction on which the tax was imposed.

The amounts determined under subparagraphs (A) and (B) shall be calculated on the basis of data for the most recently completed State fiscal year for which the data is available.

(2) TIMING.—Amounts described in paragraph (1) (B) or (C) shall be distributed by a State to its local jurisdictions in accordance with State timetables for distributing local sales taxes, but not less frequently than every calendar quarter. Amounts described in paragraph (1)(A) shall be distributed by a State as provided under State law.

(3) TRANSITION RULE.—If, upon the effective date of this title, a State has a State law in effect providing a method for distributing local sales taxes other than the method under this subsection, then this subsection shall not apply to that State until the 91st day following the adjournment sine die of that State's next regular legislative session which convenes after the effective date of this title (or such earlier date as State law may provide). Local sales taxes collected pursuant to this title prior to the application of this subsection shall be distributed as provided by State law.

(d) EXCEPTION WHERE STATE BOARD COLLECTS TAXES.—Notwithstanding section ___03(b) and subsections (b) and (c) of this section, if a State had in effect on January 1, 1995, a State law which provides that local sales taxes are collected and remitted by a board of elected States officers, then for any period during which such law continues in effect—

(1) the State may require the collection and remittance under this title of only the State sales taxes and the uniform portion of local sales taxes, and

(2) the State may distribute any local sales taxes collected pursuant to this title in accordance with State law.

SEC.___05. RETURN AND REMITTANCE REQUIREMENTS.

(a) IN GENERAL.—A State may not require any person subject to this title—

(1) to file a return reporting the amount of any tax collected or required to be collected under this title, or to remit the receipts of such tax, more frequently than once with respect to sales in a calendar quarter, or

(2) to file the initial such return, or to make the initial such remittance, before the 90th day after the person's first taxable transaction under this Act.

(b) LOCAL TAXES.—The provisions of subsection (a) shall also apply to any person required by a State acting under authority of this title to collect a local sales tax or in-lieu fee.

SEC.___06. NONDISCRIMINATION AND EXEMPTIONS.

Any State which exercises any authority granted under this title shall allow to all persons subject to this title all exemptions or other exceptions to State and local sales taxes which are allowed to persons located within the State or local jurisdiction.

SEC.___07. APPLICATION OF STATE LAW.

(a) PERSONS REQUIRED TO COLLECT STATE OR LOCAL SALES TAX.—Any person required by section ___03 to collect a State or local sales tax shall be subject to the laws of such State relating to such sales tax to the extent that such laws are consistent with the limitations contained in this title.

(b) LIMITATIONS.—Except as provided in subsection (a), nothing in this title shall be construed to permit a State—

(1) to license or regulate any person,

(2) to require any person to qualify to transact intrastate business, or

(3) to subject any person to State taxes not related to the sales of tangible personnel property.

(c) PREEMPTION.—Except as otherwise provided in this title, this title shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.

SEC.___08. TOLL-FREE INFORMATION SERVICE.

A State shall not have power under this title to require any person to collect a State or local sales tax on any sale unless, at the time of such sale, such State has a toll-free telephone service available to provide such person information relating to collection of such State or local sales tax. Such information shall include, at a minimum, all applicable tax rates, return and remittance addresses and deadlines, and penalty and interest information. As part of the service, the State shall also provide all necessary forms and instructions at no cost to any person using the service. The State shall prominently display the toll-free telephone number on all correspondence with any person using the service. This service may be provided jointly with other States.

SEC.___09. DEFINITIONS.

For the purposes of this title—

(1) the term ''compensating use tax'' means a tax imposed on or incident to the use, storage, consumption, distribution, or other use within a State or local jurisdiction or other area of a State, of tangible personal property;

(2) the term ''local sales tax'' means a sales tax imposed in a local jurisdiction or area of a State and includes, but is not limited to—

(A) a sales tax or in-lieu fee imposed in a local jurisdiction or area of a State by the State on behalf of such jurisdiction or area, and

(B) a sales tax imposed by a local jurisdiction or other State-authorized entity pursuant to the authority of State law, local law, or both;

(3) the term ''person'' means an individual, a trust, estate, partnership, society, association, company (including a limited liability company) or corporation, whether or not acting in a fiduciary or representative capacity, and any combination of the foregoing;

(4) the term ''sales tax'' means a tax, including a compensating use tax, that is—

(A) imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property as may be defined or specified under the laws imposing such tax, and

(B) measured by the amount of the sales price, cost, charge or other value of or for such property; and

(5) the term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC.___ 10. EFFECTIVE DATE.

This title shall take effect 180 days after the date of the enactment of this Act. In no event shall this title apply to any sale occurring before such effective date.

Mr. BUMPERS. Mr. President, I understand the majority leader has said there will not be any more rollcall votes tonight. Certainly, I am not going to try to keep the Senate for any prolonged period of time, but I think it would be appropriate to begin debate on this amendment, about which I feel very strongly and which I think is a very important measure for the Senate to consider. But at some point I will discontinue the debate, and it is my understanding that tomorrow, if cloture should fail, this would be the pending amendment. So I do not want to delay the Senate in getting out of here this evening.

I just want to say to my colleagues this is an amendment that will do more for the States, frankly, in the short term than this entire piece of legislation.

In 1967, the Supreme Court said that the States could not impose a tax on a mail order catalog house because it would be a violation of due process and the commerce clause. So that was the law of the land until 1992, when a case called Quill versus North Dakota was decided by the Supreme Court.

That decision reversed the 1967 decision. It said, No. 1, we are changing our mind about due process. It is no longer a violation of the due process clause if the States elect to require out-of-State companies which send goods into their State to collect the applicable sales tax, or use tax. A use tax is effectively the same thing as a sales tax, but they call it a use tax because it is a tax on the use of the product, not the sale of the product. No. 2, although imposing this tax collection burden on an out-of-State company constitutes a burden on interstate commerce that is impermissible under current law, the Congress has the right to determine if that burden should be allowed.

So the primary problem that prohibited States in the past from levying a sales tax or a use tax on mail order houses—due process—was removed.

Now, I cannot say this often enough, for anybody who is hesitant about the thrust of this amendment, that it does not impose a tax on anybody. The tax is already there. This amendment simply allows the States the discretion of saying to the mail order houses: If you are going to ship goods into this State,

you are going to have to collect the use tax on those goods.

Now, Mr. President, I do not know how many States will do it. Five States do not have a sales tax so this amendment would have no impact on those States. They would not levy a use tax on mail order products because they do not levy sales taxes on their own in-State products.

The reason this legislation is important is because virtually every State in the Union—45 of them to be precise—have a use tax now. It is levied not on the mail order house but on the buyer of goods from the mail order house. If you order a sweater from L.L. Bean and you ship it into Arkansas, even though L.L. Bean doesn't collect the applicable use tax, the State of Arkansas says that the purchaser of that sweater shall remit a use tax in the exact amount of the sales tax to the State revenue department of my State.

So what you have is a lot of people who are getting a rude surprise because the States are beginning, more and more, to find these people who are buying big ticket items. People are buying these big ticket items and suddenly somebody from the State revenue department in Florida or North Carolina knocks on the door and says, ''Friend, that boat you bought for $250,000, you owe us $12,000.'' We have letters galore in our files from people who have had that rude surprise.

Now, admittedly, the States collect very little revenue out of this. And you know the reason they do not is because the people of your respective States of West Virginia, Ohio, Idaho, and the rest of you, do not know there is a use tax on the books.

Mr. President, what do you think mail order sales in this country amount to? Just figure it out in your own mind. You open your mail every day, and you are getting two, three, four times as many catalogs at your house every week as you used to get.

I will be happy to yield to the majority leader.

Mr. DOLE. Mr. President, I wonder if the Senator will permit us to conclude a couple of things and then, if he wants to continue, I have no problem with that. I would like to conclude a couple of things and then give the floor back to the Senator. They want to adopt one unanimous-consent request. I would like to file a cloture motion, and I think the Democratic leader wants to have a colloquy. Then I need to make a statement with reference to rule XIX.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Is that all right with the Senator from Arkansas?

Mr. BUMPERS. Absolutely, Senator.

MODIFICATION TO COMMITTEE AMENDMENT ON PAGE 25, LINE 10

Mr. GLENN. Mr. President, I thank my friend from Arkansas very much. We had this amendment worked out over a period of time here. It addresses a problem we had yesterday on the floor about committee jurisdiction. It has been agreed to on both sides of the aisle. We are happy to do it with a voice vote.

I send an amendment to the desk to modify the committee amendment on page 25, line 10, that the previous amendments offered to the language proposed to be stricken by the committee amendment be added to the modification.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified

The modification to the amendment is as follows:

On page 25, strike all after line 10 and insert the following:

''(4) DETERMINATIONS OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of this subsection, in the Senate, the presiding officer of the Senate shall consult with the Committee on Governmental Affairs, to the extent practicable, on questions concuring the applicability of this section to a pending bill, joint resolution, amendment, motion, or conference report.

''(5) DETERMINATIONS OF FEDERAL MANDATE LEVELS.—For purposes of this subsection, in the Senate, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget.''.

Mr. GLENN. Mr. President, I have submitted this. I believe it is acceptable on both sides of the aisle. It takes care of a problem we debated at long length yesterday on the floor. Does my colleague have any comment?

Mr. KEMPTHORNE. Mr. President I wish to thank the Senator from Ohio, the distinguished floor manager. He is correct.

This is an issue that was of concern between the Governmental Affairs Committee and the Budget Committee. Through the evening hours and this morning, language has been worked out. I hope this is another clear evidence that we are finally moving forward on S. 1, so we can deliver unfunded mandate relief to the cities and States. The public sector realizes the private sectors are partners on this.

We agree to this amendment.

Mr. GLENN. I urge acceptance of the amendment.

VOTE ON COMMITTEE AMENDMENT ON PAGE 25, LINE 10, AS MODIFIED

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the committee amendment, as modified.

The committee amendment on page 25, line 10, as modified, was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMARKS EXPUNGED FROM THE RECORD

Mr. DOLE. Mr. President, earlier today there was a statement made on the Senate floor. I will not repeat the statement, which I think violated rule XIX. So I would pose the following question, Mr. President:

If I had called the Senator from South Carolina to order for his remarks regarding the Senator from Idaho, was rule XIX violated?

The PRESIDING OFFICER. The Chair will read from Riddick's, page 738:

A Senator in debate, who ''in the opinion of the Presiding Officer'' refers offensively to any State of the Union, or who impugns the motives or integrity of a Senator, or reflects on other Senators, may be called to order under Rule XIX.

It is therefore the opinion of the Chair that the rule was violated, rule XIX was violated.

Mr. DOLE. Mr. President, I therefore ask unanimous consent the offending remarks be expunged from the RECORD.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. DOLE. Mr. President, I thank the Senator from Arkansas. I will just take another minute. I think the Senator from South Dakota, the Democratic leader, may want to have a discussion here.

I wanted to file another cloture motion. Before I did that, I wanted to recite precisely what has happened so the record will be made.

We began debate on S. 1 at 10:30 a.m. on Thursday, January 12. There were 14 committee amendments reported. The normal process is to adopt the committee amendments en bloc after opening statements.

We have never been able to adopt the committee amendments. In fact, we have had to resort to tabling a few just to get the Senate moving. We are now only on committee amendment No. 11 out of 14.

Cloture was filed Tuesday, January 17, with the hope we could still work out a unanimous consent agreement that would provide for an exclusive list of amendments. After that, the list has gone up since yesterday—on the Democratic side from 30-some to 78, and it is climbing; and I must say it has gone up on the Republican side, up to 30. That is 108 amendments. Yesterday, we were talking about 40-some.

Our proposed agreement asks that all amendments must be offered by 6 p.m. tomorrow, and my colleague, Senator DASCHLE, counteroffered that it be offered by 12 noon on Wednesday, January 25. Obviously, when you agree on anything that has to be offered, you have to have a pretty good relationship or one person will offer an amendment and that will be it, and no other amendment can be offered. It has worked in the past, and it still may. It has worked out.

But it seems to me if we are going to complete action on this bill anytime next week, I hope my colleagues will help invoke cloture when the cloture vote occurs tomorrow morning.

There was some discussion earlier that if we did not adopt—or deal with the so-called Boxer amendment, that

might prevent cloture from being invoked. That amendment has been disposed of. It was a unanimous vote. It was worked out with Senator BOXER and Senator NICKLES and supported by every Senator who is present.

I hope we can invoke cloture tomorrow and get on with the amendments that should be debated on each side. And, having said that, I am happy to yield to the Senator from South Dakota before I send the cloture motion to the desk.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me say I am disappointed that the cloture motion will be filed. I respect the decision of the distinguished majority leader, but I remind our colleagues that only three Democratic amendments have been considered. One amendment offered by the majority was debated by the body for over 3 hours this afternoon. And I might add it was a nonrelevant nongermane amendment. So we have really not had much of an opportunity to debate many of the very relevant, germane amendments that reflect the legitimate concerns expressed by our colleagues over the course of the last several days.

Let me just go back, if I may for just a moment, to remind my colleagues that this bill was introduced on Wednesday, January 4, with very significant and important differences from S. 993, the unfunded mandates bill that was reported last year.

The Governmental Affairs Committee held a hearing the next day, on January 5. There was a markup in Governmental Affairs scheduled for Friday, January 6. Senator GLENN, the ranking member, on behalf of several Democrats, asked for time to prepare amendments and consider issues raised at the hearing. The chairman, Senator ROTH, subsequently agreed to put the markup over to Monday, the following week, with the requirement that all amendments be filed by Friday, January 6, at 10 o'clock.

Our committee members complied with that request in good faith.

The Governmental Affairs Committee then had a markup on Monday, January 9, at 10 o'clock. Members were originally told the chairman would oppose all amendments because the majority leader wanted to take them up on the floor. So our committee members again, in good faith, cooperated and delayed offering many of the amendments in committee, because they had the expectation that these amendments would be properly debated and considered on the floor. Democrats objected to eliminating the committee from the legislative process. A markup was held, and amendments were offered. All Democratic amendments were defeated as a result of this dictate on a partisan vote, except for three that were accepted by the chairman.

At the markup, members were told that there would be no committee report. There were strong objections at the time, and, of course, the whole controversy relating to the committee report has been very much a part of the debate on the floor over the last several days.

The Budget Committee held its markup at 2:30 that same Monday. At the request of the chairman, several Democratic members of the Budget Committee agreed to withhold offering their amendments until the bill was to be considered on the floor.

Committee members were then told there would be ample opportunity to offer these amendments on the floor, and Democratic members asked that a Budget Committee report on S. 1 be filed. It was our understanding that there would be a report filed. Of course, that did not happen as it was promised.

So, Mr. President, in summary, let me just emphasize, we have dealt in good faith all the way through this process. We had hoped that we could have ample consideration of the bill in both the Budget Committee and the Governmental Affairs Committee—and that did not happen. We were hoping that we could have a report before the bill came to the floor—that did not happen. We were told we would have an opportunity to consider amendments on the floor—germane amendments in many cases—and that has not happened.

In good faith, I think, Senator DOLE and I have attempted over the last day to find an agreement—and that has not happened, either.

There is no filibuster going on here. In my view, and I think in the view of many of our colleagues, there are very legitimate concerns about many of these issues.

The concerns have to be addressed prior to the time many of us feel comfortable voting on final passage. It is my hope and expectation that, if we had ample consideration of some of these legislative issues, there could be a favorable vote. But certainly, that is going to take a reasonable amount of time. I would hope that we could oppose the cloture motion tomorrow morning.

Mr. DOLE. Mr. President, I think one example is today we spent nearly 4 hours during a recess to try to work out the Boxer amendment which had to do with violence in women's clinics. It is a very important issue. It has nothing to do with this bill. And we spent the last 2 or 3 days not discussing the amendments but discussing parliamentary procedure and whether or not we can adopt the committee amendments, which generally is a matter of course.

This is a bill that has not changed a lot since last year. It has not changed much since last year. Unless something happened across the countryside that this Senator is not aware of, it is supported by the Governors, the mayors, the city officials, township and county officials, and all the others, as has been indicated by the Senator from Idaho in the debate.

The House will start action on this bill on tomorrow. They will probably demonstrate, as they did in the congressional coverage, that they can pass the same bill in an hour and 20 minutes that took us 5 days because of so many amendments that were not germane. I would not suggest that we want to be like the House. I am very happy to be the U.S. Senate, and am very happy to have been in the House years ago, too.

But it seems to me that we can bring this matter to a close. If cloture is invoked, all the germane amendments are going to be there. They can be a debated, adopted and disposed of in one way or the other.

So I hope that tomorrow we can move on this bill. We may not. We have one Senator with five relevant amendments; another three, relevant; two relevant. We have the same on the Republican side; one Member with one or two relevant amendments, whatever they may be. But they add up to 180 amendments. It is much like the tax bill. I have had a few tax bills on the Senate floor.

So I certainly will continue to work with the distinguished Democratic leader. We want to accommodate our colleagues wherever we can on both sides of the aisle. And we will continue to work to do that.

I would be willing to ask right now that all the committee amendments that have not yet been disposed of be agreed to en bloc. I ask unanimous consent that all committee amendments that have not yet been disposed of be agreed to en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. We object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. It is an indication that we are not making progress.

THE EASTER RECESS

Mr. DOLE. Mr. President, I wanted to make one correction. We have had great difficulty with the Easter recess. I will take the blame for most of it. But a letter went out today saying thanks for the extra week. What extra week? It is not an extra week. We are not getting 3 weeks off. We are getting a week before Easter and a week after.

By the time the letter went out it had almost the entire month of April. It is not going to happen. We will be out April 7 to April 24. That is 17 days. We are going to be way behind the House. The House has 3 weeks. We will be about 2 months behind the House by then at the rate we are going.

So I hope we do not have to put out anymore. If we want a fine letter on the Easter recess, we have already put out the hotline.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented